SENATE.

WEDNESDAY, *April 3, 1912.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the following bills, with amendments, in which it requested the concurrence of the Senate.

S. 252. An act to establish in the Department of Commerce and Labor a bureau to be known as the children's bureau;

S. 2434. An act providing for an increase of salary of the United States marshal for the district of Connecticut; and

S. 5718. An act to authorize the Secretary of the Interior to secure for the United States title to patented lands in the Yosemite National Park, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 20190. An act to extend the time for the construction of a dam across Rock River; Ill.;

H. R. 20286. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River;

H. R. 20486. An act authorizing the construction of a bridge across the Willamette River at or near Newberg, Oreg.;

H. R. 21170. An act granting to El Paso & Southwestern Railroad Co., a corporation organized and existing under the laws of the Territory and State of Arizona, a right of way through the Fort Huachuca Military Reservation, in the State of Arizona, and authorizing said corporation and its successors or assigns to construct and operate a railway through said Fort Huachuca Military Reservation, and for other purposes;

H. R. 22043. An act to authorize additional aids to navigation in the Lighthouse Service, and for other purposes; and

H. R. 22261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors of said war.

The message further announced that the House had passed the concurrent resolution (No. 19) of the Senate authorizing and directing the Secretary of War to confer with the Fiftieth Anniversary of the Battle of Gettysburg Commission of the State of Pennsylvania, with a view to making plans and recommendation for future legislation looking to the proper administration of the celebration of the fiftieth anniversary of the Battle of Gettysburg, to be held on July 1, 2, 3, and 4, 1913, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 22772) appropriating $350,000 for the purpose of maintaining and protecting against impending floods the levees on the Mississippi River, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. NIXON presented a memorial of the Commercial Association of Goldfield, Nev., remonstrating against any reduction in the appropriations for the maintenance of the United States Mint at San Francisco, Cal., which was referred to the Committee on Appropriations.

Mr. GALLINGER presented the petition of A. S. Wetherell, jr., of Exeter, N. H., praying that an appropriation be made for the construction of a public highway from Washington, D. C., to Gettysburg, Pa., as a memorial to Abraham Lincoln, which was referred to the Committee on Appropriations.

He also presented a petition of the National Christian Congress Association of America, praying for the enactment of legislation to provide for the incorporation of that association, which was referred to the Committee on the District of Columbia.

Mr. NELSON presented a petition of sundry citizens of Tracy, Minn., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. GRONNA presented a petition of sundry citizens of Devils Lake, N. Dak., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Berg, N. Dak., praying for the repeal of the reciprocity pact with Canada, which was referred to the Committee on Finance.

He also presented petitions of sundry citizens of Underwood, Reeder, Wheelock, Esmond, and of Adams and Bottineau Counties, all in the State of North Dakota, praying for the establishment of a parcel-post system, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of sundry citizens of Garrison, N. Dak., remonstrating against the establishment of a parcel-post system, which was referred to the Committee on Post Offices and Post Roads.

Mr. OWEN presented a petition of the Eastern Cherokees, praying that they be reimbursed in the sum of $103,749.74, which has been deducted from their judgment fund to discharge an obligation which rested solely upon the United States, which was referred to the Committee on Indian Affairs.

Mr. BROWN presented a memorial of sundry citizens of McCook, Nebr., remonstrating against a reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. BRADLEY presented a petition of the Woman's Christian Temperance Union of Lexington, Ky., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. GUGGENHEIM presented memorials of 150 citizens of Crawford County, 235 citizens of Delta County, 90 citizens of Prowers County, 66 citizens of Adams County, 490 citizens of Morgan County, 120 citizens of Sedgwick County, 180 citizens of Arapahoe County, 300 citizens of Logan County, 280 citizens of Montrose County, 2,737 citizens of Denver County, 448 citizens of Boulder County, 170 citizens of Bent County, 475 citizens of Mesa County, 2,065 citizens of Weld County, 1,220 citizens of Larimer County, 475 citizens of Otero County, 190 citizens of Pueblo County, and 10 citizens of Washington County, of the Commercial Club of Monte Vista, of the Commercial Club of Julesburg, of the Chamber of Commerce of Fort Morgan, of the Commercial Club of Fowler, of the Commercial Club of Las Animas, of the Commercial Club of Wellington, of the Commercial Club of La Jara, of the Bent County Agricultural Association, of the Chamber of Commerce of Grand Junction, and of the Business Men's Association of Loma, all in the State of Colorado; and of 39 citizens of the State of Nebraska, remonstrating against a reduction of the duty on sugar, which were referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. THORNTON, from the Committee on Naval Affairs, to which was referred the bill (S. 3645) to amend the law providing for the payment of the death gratuity as applicable to the Navy and Marine Corps, reported it without amendment and submitted a report (No. 551) thereon.

Mr. CULLOM, from the Committee on Foreign Relations, to which was referred the bill (S. 5735) to enable the President to propose and invite foreign Governments to participate in an international conference to promote an international inquiry into the causes of the high cost of living throughout the world and to enable the United States to participate in said conference, reported it without amendment.

He also, from the same committee, to which was referred the amendment submitted by Mr. BURTON February 26, 1912, proposing to appropriate $5,900 for payment of expenses of expert delegates to the International Radiotelegraphic Conference, London, June, 1912, etc., intended to be proposed to the diplomatic and consular appropriation bill (H. R. 19212), reported favorably thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. SUTHERLAND, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 5494) to provide a site for the erection of a building to be known as the George Washington Memorial Building, to serve as the gathering place and headquarters of patriotic, scientific, medical, and other organizations interested in promoting the welfare of the American people, reported it with amendments and submitted a report (No. 552) thereon.

Mr. SMITH of South Carolina, from the Committee on Agriculture and Forestry, to which was referred the joint resolution (S. J. Res. 62) relating to cotton statistics, reported it with an amendment.

He also, from the same committee, to which was referred the bill (H. R. 14052) authorizing the Secretary of Agriculture to issue certain reports relating to cotton, reported it with an amendment.

Mr. SMITH of Georgia, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 5294) to establish in the Bureau of Statistics, in the Department of Agriculture, a division of markets, reported it with amendments and submitted a report (No. 554) thereon.

Mr. OWEN, from the Committee on Indian Affairs, to which was referred the bill (S. 5186) to incorporate the Brotherhood of North American Indians, reported it with amendments and submitted a report (No. 555) thereon.

He also, from the same committee, to which was referred the bill (S. 461) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Ponca Tribe of Indians against the United States, reported it with an amendment and submitted a report (No. 557) thereon.

Mr. GRONNA, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 222) to establish an agricultural plant, shrub, and tree experimental station at or near the city of Mandan, west of the Missouri River, in the State of North Dakota, reported it with amendments and submitted a report (No. 556) thereon.

THE MILITARY POLICY OF THE UNITED STATES (S. DOC. NO. 494).

Mr. SMOOT. From the Committee on Printing I report back favorably with an amendment Senate resolution 76, submitted by the Senator from Delaware [Mr. DU PONT], and I ask for its immediate consideration.

The Senate, by unanimous consent, proceeded to consider the resolution.

The amendment was, in line 1, before the word "thousand," to strike out "two" and insert "one," and after the word "thousand" to strike out the words "five hundred," so as to make the resolution read:

Resolved, That 1,000 copies of the publication The Military Policy of the United States, by Bvt. Maj. Gen. Emory Upton, United States Army, be printed as a document.

The amendment was agreed to.

The resolution as amended was agreed to.

JAMES S. ALEXANDER.

Mr. THORNTON. By direction of the Committee on Naval Affairs I report back adversely the bill (S. 2510) for the relief of former Paymaster's Clerk James S. Alexander, and I submit a report (No. 550) thereon. On behalf of the committee I request that the committee's report be published in the RECORD.

The VICE PRESIDENT. Without objection, action upon the bill will be indefinitely postponed, and the request for printing the report in the RECORD will be complied with.

The report is as follows:

[Senate Report No. 550, Sixty-second Congress, second session.]

JAMES S. ALEXANDER.

Mr. THORNTON, from the Committee on Naval Affairs, submitted the following adverse report to accompany S. 2510:

The Committee on Naval Affairs, to whom was referred the bill (S. 2510) for the relief of former Paymaster's Clerk James S. Alexander, having considered the same, report thereon with a recommendation that it do not pass.

The views of the Navy Department are appended and made a part of this report, as follows:

DEPARTMENT OF THE NAVY,
Washington, June 27, 1911.

MY DEAR SENATOR: Referring to your letter dated May 26, 1911, inclosing a bill (S. 2510) for the relief of former Paymaster's Clerk James S. Alexander, and requesting the department's opinion thereon, I have the honor to inform you that it appears that James S. Alexander was appointed January 8, 1862, and served as pay steward on the *Onward* to October 28, 1862, when he was discharged. His subsequent service, all of which was in the capacity of pay clerk, was as follows:

Place of duty.	Date of appointment.	Date of revocation.
Wamsutta	Jan. 22, 1863	Oct. 28, 1863
Massasoit	Jan. 12, 1864	Aug. 13, 1864
Roanoke	Aug. 27, 1864	Aug. 19, 1865
Albany	Sept. 10, 1865	Nov. 27, 1869
Congress	Feb. 5, 1870	Apr. 26, 1870
Monocacy	June 5, 1870	Nov. 5, 1873
Franklin	Dec. 16, 1876	May 1, 1877
Swatara	July 19, 1877	Dec. 15, 1878
New York, League Island	Jan. 1, 1880	Mar. 28, 1885
Adams	Oct. 23, 1885	Apr. 19, 1889
New York, League Island	Apr. 20, 1889	Apr. 9, 1892
Naval Home, Philadephia	Apr. 10, 1892	Nov. 30, 1898

This record shows that Mr. Alexander has had in all about 31 years' service, of which about 30 years has been as a paymaster's clerk. He is not now in the Navy. Recent legislation has provided for the retirement of paymasters' clerks who, in conformity with the provisions of law relating to the retirement of officers of the Navy, have become eligible to the benefits thereof. The object of this bill is to give Mr. Alexander, although out of the service, the same privilege of retirement as though he were not now separated therefrom.

Inasmuch as the enactment of special legislation of this character would furnish a most undesirable precedent in undoubtedly numerous other cases in which similar congressional favor would be sought, and, furthermore, as it is not believed to be consistent with good policy to increase the numbers on the retired list by the transfer of individuals thereto who do not come within the provisions of existing law, and as nothing appears on the record of Mr. Alexander sufficiently meritorious to make an exception in his favor, the department recommends that favorable action be not taken on this measure in his behalf.

Faithfully, yours,
BEEKMAN WINTHROP,
Acting Secretary of the Navy.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
United States Senate.

This is a special bill for the relief of former Paymaster's Clerk James S. Alexander, the object of the bill being to place him upon the retired list of the Navy with the retired pay of a paymaster's clerk of like length of service. By reference to the opinion of the department your committee finds that there has been recent legislation providing for the retirement of paymaster's clerks, who, in conformity with the provisions of law relating to the retirement of officers of the Navy, have been eligible to the benefits of said legislation.

The committee finds further that Mr. Alexander has not been in the service since 1898, and if this special legislation in his favor was passed it would be equivalent to allowing him, although long since out of the service, the privilege of retiring from it on the same allowance that he would have if he had not left the service years ago, and in this way avail himself of legislation that is intended solely for the benefit of those who are now in the service and desire to retire from it in conformity with existing legislation.

In the opinion of the Secretary of the Navy the passage of this bill would create a precedent in numerous other cases in which congressional favor would be sought, which would not be desirable; nor is it thought good policy to increase the numbers on the retired list by the transfer thereto of individuals who would not come within the provisions of existing laws.

The report also states that nothing appears on the record in connection with any special meritorious service on the part of Mr. Alexander to justify an exception being made in his favor, and the department recommends adverse action on the bill. Under the facts as disclosed in the record and in view of the reasoning of the department, which seems to be eminently sound, your committee is compelled to report unfavorably on the bill.

EMPLOYEES OF COMMON CARRIERS.

Mr. SUTHERLAND. From the Committee on the Judiciary I report back favorably with amendments the bill (S. 5382) to provide an exclusive remedy and compensation for accidental injuries, resulting in disability or death, to employees of common carriers by railroad engaged in interstate or foreign commerce, or in the District of Columbia, and for other purposes, and I submit a report (No. 553) thereon. I give notice that on Monday next, or as soon thereafter as the business of the Senate will permit, I shall ask the Senate to proceed with the consideration of the bill.

I ask that 2,500 additional copies of the report be printed for the use of the Judiciary Committee.

Mr. CULBERSON. Mr. President, I desire to say that the report is not for the entire Committee on the Judiciary, and I ask leave on behalf of myself at some convenient time to make a minority report.

The VICE PRESIDENT. The Senator from Texas will have leave to file minority views, without objection.

Mr. GALLINGER. I will ask the Senator from Utah if he will not be willing that a portion of the extra copies shall go to the document room, say 1,000, and that 1,500 be printed for the use of the committee.

Mr. SUTHERLAND. Very well.

Mr. GALLINGER. Fifteen hundred copies for the use of the committee and 1,000 for the document room.

The VICE PRESIDENT. Without objection, the order will be modified as indicated. The bill will be placed on the calendar.

The order as agreed to was reduced to writing, as follows:

Ordered, That 2,500 additional copies be printed of the report on the bill (S. 5382) to provide an exclusive remedy and compensation for accidental injuries, resulting in disability or death, to employees of common carriers by railroad engaged in interstate or foreign commerce, or in the District of Columbia, and for other purposes, of which 1,500 shall be for the use of the Committee on the Judiciary and 1,000 for the Senate document room.

MEMORIAL AMPHITHEATER AT ARLINGTON.

Mr. SUTHERLAND. Yesterday I reported favorably from the Committee on Public Buildings and Grounds the bill (S. 4780) for the erection of a memorial amphitheater at Arlington Cemetery. The report contained certain illustrations, and I am informed it requires an order of the Senate before they can be printed. The plates for the illustrations are already in the hands of the Printing Office. I therefore ask that such authorization as may be necessary be given to have those illustrations included in the report.

The VICE PRESIDENT. Without objection, an order therefor will be entered.

The order as agreed to was reduced to writing, as follows:

Ordered, That the illustrations accompanying Senate Report No. 542, "For the erection of a memorial amphitheater at Arlington Cemetery," be printed in said report.

TROPHY FLAGS.

Mr. SWANSON. I am directed by the Committee on Naval Affairs, to which was referred the bill (H. R. 15471) making

appropriation for repair, preservation, and exhibition of the trophy flags now in store at the Naval Academy, Annapolis, Md., to report it favorably without amendment, and I submit a report (No. 549) thereon. I ask for the immediate consideration of the bill.

The VICE PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SMOOT. I should like to ask the Senator if this is a Senate or a House bill?

Mr. SWANSON. It is a bill that has passed the House, and it is reported favorably by the Committee on Naval Affairs of the Senate.

Mr. SMOOT. Is it a unanimous report?

Mr. SWANSON. It is a unanimous report. The bill is recommended by the Secretary of the Navy.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 6150) for the relief of William Abbot and others; to the Committee on Claims.

By Mr. SUTHERLAND:

A bill (S. 6151) to amend section 53 of the Judicial Code approved March 3, 1911; to the Committee on the Judiciary.

By Mr. NELSON:

A bill (S. 6152) for the relief of Charles J. Allen, United States Army, retired; to the Committee on Claims.

A bill (S. 6153) for the relief of Charley Clark, a homestead settler on certain lands therein described; to the Committee on Public Lands.

By Mr. GUGGENHEIM:

A bill (S. 6154) appropriating $10,000 to be used by the Forest Service in the further construction and improvement of the highway between Silverton and Creede in the San Juan and Rio Grande National Forests in Colorado; and

A bill (S. 6155) appropriating $10,000 to be used by the Forest Service in the further construction and improvement of the highway between Silverton and Durango in the San Juan National Forest in Colorado; to the Committee on Agriculture and Forestry.

(By request.) A bill (S. 6156) to direct that Crittenden Street NW., between Iowa Avenue and Seventeenth Street NW., be stricken from the plan of the permanent system of highways for the District of Columbia; to the Committee on the District of Columbia.

A bill (S. 6157) granting an increase of pension to James Cooper (with accompanying paper); to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 6158) granting an increase of pension to Joseph Nye (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 6159) to repeal section 8 of the act of June 18, 1878, entitled "An act to organize the Life-Saving Service"; to the Committee on Commerce.

By Mr. McCUMBER:

A bill (S. 6160) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River in the State of North Dakota; to the Committee on Commerce.

By Mr. MYERS:

A bill (S. 6161) to authorize the Great Northern Railway Co. to construct a bridge across the Yellowstone River in the county of Dawson, State of Montana; to the Committee on Commerce.

By Mr. SWANSON:

A bill (S. 6162) for the relief of Passed Asst. Surg. Micajah Boland, United States Navy; to the Committee on Naval Affairs.

By Mr. SMITH of Arizona:

A bill (S. 6163) to provide for the purchase of a site for a public building in the city of Nogales, Ariz.; to the Committee on Public Buildings and Grounds.

By Mr. OWEN:

A bill (S. 6164) to amend section 5 of an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes"; and

A bill (S. 6165) for the relief of the Iowa Tribe of Indians in Oklahoma; to the Committee on Indian Affairs.

By Mr. BROWN:

A bill (S. 6166) granting an increase of pension to Miles F. Martin (with accompanying paper); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 6167) to authorize the Williamson & Pond Creek Railroad Co. to construct a bridge across the Tug Fork of the Big Sandy River at or near Williamson, Mingo County, W. Va.; to the Committee on Commerce.

By Mr. CHAMBERLAIN:

A bill (S. 6168) granting a pension to Charles A. Bills (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS (for Mr. KENYON):

A bill (S. 6169) granting an increase of pension to Ira Waldo;

A bill (S. 6170) granting a pension to Saloma Bowman Ellsworth; and

A bill (S. 6171) granting a pension to Ezra Edwards; to the Committee on Pensions.

AMENDMENTS TO RIVER AND HARBOR BILL (H. R. 21477).

Mr. WORKS submitted an amendment proposing to grant to the people of Los Angeles, Cal., all the right, title, and interest of the United States in and to that portion of the submerged lands around the military reservation, Dead Man's Island, Cal., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. TOWNSEND submitted an amendment proposing to repeal section 8 of the act of June 18, 1878, relative to the Life-Saving Service, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. HEYBURN submitted an amendment proposing to increase the appropriation for improving Columbia River between the foot of The Dalles Rapids and the head of Celilo Falls, Oreg. and Wash., from $600,000 to $800,000, and also proposing to increase the appropriation for improving Columbia River and tributaries from Celilo Falls to the mouth of Snake River, Oreg. and Wash., from $30,000 to $50,000, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. BAILEY submitted an amendment proposing to increase the appropriation for improving the channel from Galveston Harbor to Texas City, Tex., etc., from $100,000 to $200,000, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment relative to the appointment of a board of five engineer officers to examine Texas City Harbor and Channel, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment relative to the improvement of the Sabine-Neches Canal, Tex., from the Port Arthur Ship Canal to the mouth of the Sabine River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. HEYBURN submitted an amendment proposing to appropriate $30,000 for the construction of buildings for agency headquarters on the Coeur d'Alene Indian Reservation in Idaho, etc., intended to be proposed by him to the Indian appropriation bill (H. R. 20728), which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $80,000 for continuing the survey of public lands in Idaho, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H. R. 20190. An act to extend the time for the construction of a dam across Rock River, Ill.;

H. R. 20286. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River;

H. R. 22043. An act to authorize additional aids to navigation in the Lighthouse Service, and for other purposes; and

H. R. 20486. An act authorizing the construction of a bridge across the Willamette River at or near Newberg, Oreg.

H. R. 21170. An act granting to El Paso & Southwestern Railroad Co., a corporation organized and existing under the laws of the Territory and State of Arizona, a right of way through the Fort Huachuca Military Reservation, in the State of Arizona, and authorizing said corporation and its successors or assigns to construct and operate a railway through said Fort Huachuca Military Reservation, and for other purposes, was read twice by its title and referred to the Committee on Commerce.

H. R. 22261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors of said war was read twice by its title and referred to the Committee on Pensions.

TAX UPON WHITE PHOSPHORUS MATCHES.

Mr. LODGE. I move that the Senate proceed to the consideration of the bill (H. R. 20842) to provide for a tax upon white phosphorus matches, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GALLINGER. Let the bill be read.

The VICE PRESIDENT. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That for the purposes of this act the words "white phosphorus" shall be understood to mean the common poisonous white or yellow phosphorus used in the manufacture of matches and not to include the nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorus.

SEC. 2. That every manufacturer of white phosphorus matches shall register with the collector of internal revenue of the district his name or style, place of manufactory, and the place where such business is to be carried on; and a failure to register as herein provided and required shall subject such person to a penalty of not more than $500. Every manufacturer of white phosphorus matches shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns in relation to the business, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulation, require. The bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue and in the penal sum of not less than $1,000; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue.

SEC. 3. That all white phosphorus matches shall be packed by the manufacturer thereof in packages containing 100, 200, 500, 1,000, or 1,500 matches each, which shall then be packed by the manufacturer in packages containing not less than 14,400 matches, and upon white phosphorus matches manufactured, sold, or removed there shall be levied and collected a tax at the rate of 2 cents per 100 matches, which shall be represented by adhesive stamps, and this tax shall be paid by the manufacturer thereof, who shall affix to every package containing 100, 200, 500, 1,000, or 1,500 matches such stamp of the required value and shall place thereon the initials of his name and the date on which such stamp is affixed, so that the same may not again be used. Every person who fraudulently makes use of an adhesive stamp to denote any tax imposed by this section without so effectually canceling such stamp shall forfeit the sum of $50 for every stamp in respect to which such offense is committed.

SEC. 4. That every manufacturer of matches who manufactures, sells, removes, distributes, or offers to sell or distribute white phosphorus matches without there being affixed thereto an adhesive stamp, denoting the tax required by this act, effectually canceled as provided by the preceding section, shall for each offense be fined not more than $1,000 and be imprisoned not more than two years. Every manufacturer of matches who, to evade the tax chargeable thereon or any part thereof, hides or conceals, or causes to be hidden or concealed, or removes or conveys away, or deposits or causes to be removed or conveyed away from or deposited in any place any white phosphorus matches, shall for each offense be fined not more than $1,000 and be imprisoned not more than two years, or both, and all such matches shall be forfeited.

SEC. 5. That every person who affixes a stamp on any package of white phosphorus matches denoting a less amount of tax than that required by law shall for each offense be fined not more than $1,000 or be imprisoned not more than two years, or both.

SEC. 6. That every person who removes, defaces, or causes or permits or suffers the removal or defacement of any such stamp, or who uses any stamp or any package to which any stamp is affixed to cover any other white phosphorus matches than those originally contained in such package with such stamp when first used, to evade the tax imposed by this act, shall for every such package in respect to which any such offense is committed be fined $50, and all such matches shall also be forfeited.

SEC. 7. That every manufacturer of white phosphorus matches who defrauds or attempts to defraud the United States of the tax imposed by this act, or any part thereof, shall forfeit the factory and manufacturing apparatus used by him and all the white phosphorus matches and all raw material for the production of white phosphorus matches found in the factory and on the factory premises, or owned by him, and shall be fined not more than $5,000 or be imprisoned not more than three years, or both. All packages of white phosphorus matches subject to tax under this act that shall be found without stamps as herein provided shall be forfeited to the United States.

SEC. 8. That the Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps for payment of the tax on white phosphorus matches provided for by this act. Such stamps shall be furnished to collectors, who shall sell the same only to duly qualified manufacturers. Every collector shall keep an account of the number and denominate values of the stamps sold by him to each manufacturer. All the provisions and penalties of existing laws governing the engraving, issuing, sale, affixing, cancellation, accountability, effacement, destruction, and forgery of stamps provided for internal revenue are hereby made to apply to stamps provided for by this act.

SEC. 9. That whenever any manufacturer of white phosphorus matches sells or removes any white phosphorus matches without the use of the stamps required by this act, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such sale or removal, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector, who shall collect the same according to law. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

SEC. 10. That on and after January 1, 1913, white phosphorus matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by the Government of the country in which such matches were manufactured as shall satisfy the Secretary of the Treasury that they are not white phosphorus matches. The Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section.

SEC. 11. That after January 1, 1914, it shall be unlawful to export from the United States any white phosphorus matches. Any person guilty of violation of this section shall be fined not less than $1,000 and not more than $5,000, and any white phosphorus matches exported or attempted to be exported shall be confiscated to the United States and destroyed in such manner as may be prescribed by the Secretary of the Treasury, who shall have power to issue such regulations to customs officers as are necessary to the enforcement of this section.

SEC. 12. That every manufacturer of matches shall mark, brand, affix, stamp, or print, in such manner as the Commissioner of Internal Revenue shall prescribe, on every package of white phosphorus matches manufactured, sold, or removed by him, the factory number required under section 2 of this act. Every such manufacturer who omits to mark, brand, affix, stamp, or print such factory number on such package shall be fined not more than $50 for each package in respect of which such offense is committed. Every manufacturer of white phosphorus matches shall securely affix by pasting on each original package containing stamped packages of white phosphorus matches manufactured by him a label, on which shall be printed, besides the number of the manufactory and the district in which it is situated, these words: "Notice.—The manufacturer of the white phosphorus matches herein contained has complied with all the requirements of law. Every person is cautioned not to use again the stamps on the packages herein contained under the penalty provided by law in such cases." Every manufacturer of white phosphorus matches who neglects to affix such label to any original package containing stamped packages of white phosphorus matches made by him or sold or removed by or for him, and every person who removes any such label so affixed from any such original package shall be fined not more than $50 for each package in respect of which such offense is committed.

SEC. 13. That if any manufacturer of white phosphorus matches, or any importer or exporter of matches, shall omit, neglect, or refuse to do or cause to be done any of the things required by law in carrying on or conducting his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall be fined $1,000 for each offense, and all the white phosphorus matches owned by him or in which he has any interest as owner shall be forfeited to the United States.

SEC. 14. That all fines, penalties, and forfeitures imposed by this act may be recovered in any court of competent jurisdiction.

SEC. 15. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful regulations for the carrying into effect of this act.

SEC. 16. That sections 3164 to 3177, 3179 to 3243, 3346 as amended, 3429 as amended, 3445 to 3448, 3450 to 3463, all inclusive, of the Revised Statutes of the United States, and all other provisions and penalties of existing law relating to internal revenue so far as applicable, are hereby made to extend to and include and apply to the taxes imposed by this act and to the articles upon which and to the persons upon whom they are imposed.

SEC. 17. That this act shall take effect on July 1, 1913, except as previously provided in this act; and except as to its application to the sale or removal of white phosphorus matches by the manufacturers, as to which it shall take effect on January 1, 1915.

Mr. BAILEY. Mr. President, neither the Senator from Massachusetts [Mr. LODGE] nor any other Senator in this body can make any defense of this measure, frankly avowing the purpose of it. The only defense of it that can be made is predicated, and the argument in favor of it is predicated, upon the false pretense that it is a revenue measure. The Senator from Massachusetts does not expect, and does not desire, to raise any revenue under its provisions. The whole purpose of it is, under the guise of a Federal tax, to invade the States and usurp their police powers. The Senator from Massachusetts thinks it wrong to permit people to work in match factories with this material; and, being unable to persuade the Commonwealth of Massachusetts to enact a law prohibiting it, he comes to the Federal Congress to procure a law taxing it to a full prohibition.

I have received several telegrams during the last few days in favor of this bill, but I have not a single one with any argument in it, or suggestion in it, except that it was inhuman to permit men and women to engage in the work of making matches with this substance. I am not an expert on that question. If I were a member of a State legislature and authorized to exercise a wise and judicious police power, I would strive to inform myself, and if I believed it was a dangerous or unwholesome employment, I would, without the slightest hesitation, vote directly to prohibit it; but, sir, the Government of the United States possesses no police power, certainly possesses no general police power, and every time it seeks to exercise such a power under the guise of taxation it practices a miserable and a false pretense.

I invite my friends from the South especially to remember that it was on precisely this kind of a false pretense that our cottonseed-oil products were discriminated against in favor of the dairies. I think an experience of 9 or 10 years has about convinced those who advocated that legislation that they have not only done cottonseed-oil products a grave injury, but they have done perhaps a still graver injury to the millions of industrious poor who are compelled to pay a higher price for poor butter than they then were compelled to pay for wholesome oleomargarine. If we can tax this industry out of existence, then we can select for destruction and destroy any industry which a majority of the two Houses of Congress may condemn. I think the Senator from Massachusetts will not say that the match, after it is made, is not a fit subject for interstate commerce. It is the process of making it against which these people inveigh, and they simply seek to prohibit that industry under the pretense of levying a Federal tax.

Mr. President, I have no doubt that if the Federal Government possessed the power to regulate the manufacture of matches, or if it possessed the power to prohibit the manufacture of matches, then it could enforce its regulation or its prohibition by a tax as well as by any other method.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Texas yield to the Senator from New Hampshire?

Mr. BAILEY. I do.

Mr. GALLINGER. I am not going to undertake to controvert the Senator's constitutional argument, but I want to suggest to the Senator that the contention is not only against the manufacture of these matches, but against their poisonous nature after they are manufactured.

Mr. BAILEY. I have seen no suggestion of that kind.

Mr. GALLINGER. Yesterday I received a letter from a good woman whom I have known for many years——

Mr. BAILEY. Oh, yes, Mr. President, when the labor organizations and the women get through running this Congress, there will not be a shred of the Constitution left. [Laughter.]

Mr. GALLINGER. If the Senator will permit me to conclude my sentence——

Mr. BAILEY. Certainly.

Mr. GALLINGER. I received a letter from a very good woman, whom I have known for many years, who stated to me, "My dear little girl, aged 9 years, has just died from eating phosphorus from a certain kind of matches."

Mr. BAILEY. If she had found a bottle of poison and drank that she would have died.

Mr. GALLINGER. Now, if the Senator will permit me further, there are innumerable such cases recorded. The use of this substance is a very great menace to child life. I do not know that that ought to have any potency in this argument, but it goes a little further than the manufacture of these matches.

Mr. BAILEY. Upon that theory we ought to tax pins out of existence, for children have swallowed them and died.

Mr. GALLINGER. Hardly that.

Mr. BAILEY. And a child may take, with disastrous results, medicine useful in cases of sickness. The doctor is giving me medicine now which I do think would not be very safe for a child to take, and I would have been in bed this moment if I had not felt it to be my duty to come here this morning to offer some amendments to the river and harbor bill, and I was just leaving the Chamber to go back home and to go to bed when the Senator from Massachusetts called up this monstrosity, and, although I have no hope of defeating it, I was not willing to see it passed without recording my protest and denouncing it for what it is—a false pretense.

Mr. President, if this particular match is not a merchantable commodity, then I will grant you that you have the power to prohibit its introduction into interstate commerce. But that is not the purpose; the purpose is to prevent a peculiar disease, which physicians tell us originates from working in factories where this particular substance is used in the manufacture of matches. I have always found the Senator from Massachusetts frank, and I am going to ask him if it is not the purpose of this bill to prevent the use of that substance in the manufacture of matches?

Mr. LODGE. Undoubtedly it is supposed that the effect of the tax will be to prevent the use of white phosphorus in the manufacture of matches.

Mr. BAILEY. And that is the very purpose of the bill, is it not?

Mr. LODGE. The purpose of the bill is to levy a tax upon them.

Mr. BAILEY. That is not the purpose of the bill; that is merely the means of accomplishing its purpose.

Mr. LODGE. No——

Mr. BAILEY. Let me put it to the Senator in this way——

Mr. LODGE. The real purpose of the bill—of course I am not going to——

Mr. BAILEY. I knew the Senator would not conceal the real purpose.

Mr. LODGE. I have no idea of trying to equivocate or anything of that kind.

Mr. BAILEY. I knew the Senator would not, and that is the reason I asked him.

Mr. LODGE. The real purpose of the bill is to destroy an industry that ought to be destroyed.

Mr. BAILEY. Well, Mr. President, who is to judge of that—the Government of the United States or the States in which these industries are conducted?

Mr. LODGE. I think that we must be the judge of it, because it is utterly and hopelessly impracticable to get 46 States to put an end to this industry.

Mr. BAILEY. That sounds like an echo of an ex-President of the United States, who has told us that whenever the States would not do their duty the Federal Government ought to do it for them.

Mr. LODGE. If the Senator will allow me to complete my sentence——

Mr. BAILEY. I will.

Mr. LODGE. I was going to say that I think nothing worse to the Constitution could be done than to have it said that neither through the States nor through the United States can we put a stop to an abuse. It is just that sort of thing that is bringing on the agitation against the Constitution of the United States, which I, in common with the Senator from Texas, deplore.

Mr. BAILEY. But the trouble is that the "agitators" all adopt the Senator's view of it. I am glad to hear him designate them as "agitators," although that includes his warm, personal, and sometime political friend, the ex-President of the United States, who, in my opinion, is about the most pernicious of these agitators at this time [laughter], and there is not one of those whom he so aptly describes as "agitators" who does not contend for this same doctrine.

Mr. President, human life is precious, and the right to live is sacred. But suppose a State of this Union were to repeal its laws against homicide and leave every man to defend himself in the good old way. Suppose it were to repeal all of its laws against theft and remit us to the good old way—

> * * * The simple plan,
> That they should take who have the power,
> And they should keep who can—

would the Senator from Massachusetts come here and say: "The State of Massachusetts, having repealed its laws against homicide and its laws against theft, I invoke the power of the Federal Congress to lay a tax on killing men and on theft"?

Yet that is precisely a parallel case with this. Here is something which ought to be forbidden.

Mr. LODGE. If the Senator will allow me, it is not proposed to export the murderer or the thief. But the State that allows the making of these poisonous matches, and permits the industry to go on, exports them into every other State in the Union.

Mr. BAILEY. The Senator has just said that the purpose is not to prevent their exportation in interstate commerce, but it is to prevent their manufacture.

Mr. LODGE. To prevent their manufacture; and if they are not manufactured they can not enter into interstate commerce.

Mr. BAILEY. Of course, if they are not manufactured they can not be introduced into interstate commerce.

Mr. LODGE. Precisely.

Mr. BAILEY. But the States are entitled to determine whether or not they shall be manufactured and the Federal Government can determine whether or not they are fit subjects for interstate and foreign commerce. If the Senator will say they are not fit subjects for interstate and foreign commerce, let him write that in the bill.

Mr. LODGE. I do not think so.

Mr. BAILEY. Does the Senator think they are not fit subjects, or does he think he ought not to write it in the bill?

Mr. LODGE. I do not think we can do it under that power.

Mr. BAILEY. Then the Senator is evading, he is cheating, the Constitution.

Mr. LODGE. I do not think so.

Mr. BAILEY. Of course the Senator does not think so, or he would not do it.

Mr. LODGE. I do not want to interrupt the Senator, but this matter has all been passed on in the oleomargarine case.

Mr. BAILEY. Oh, yes; and I stood here for two days and tried to defeat that bill. I have been spending my life trying to defeat measures of this kind, but I have never defeated any

of them yet, and that is one of the reasons I am glad to retire from the Senate. I am sick almost to death of having men stand here and vote one way, and then tell me in the cloakroom that I was really right on the principle, but the practical good was so-and-so, and it overruled the principle. I utterly reject that philosophy. I do not believe that any real or permanent good was ever accomplished in this world by violating a sound principle of government or morals.

If the Federal Government has a right to prevent the manufacture of matches by this process, it has a right to prevent the manufacture of any other commodity by any process which falls under the condemnation of its judgment or its caprice.

Mr. LODGE. Mr. President, this bill comes from the House and has been favorably reported from the Committee on Finance. It has been reported without amendment and without change.

Mr. BAILEY. As I am a member of that committee, I will ask the Senator's permission to say that I was not at the meeting of the committee when the bill was reported.

Mr. LODGE. The Senator was not present. I did not say it was a unanimous report.

Mr. BAILEY. No.

Mr. LODGE. The injury caused by the manufacture of the white phosphorus match, the hideous disease that it brings on in the persons of those employed, who are chiefly women and girls, is a matter that needs no enlargement from me. It is well known and is accepted as a fact. The disease which it causes is a most horrible one. Every other civilized nation, so far as I have been able to learn, has prohibited the manufacture of these matches. Great Britain tried for some 10 years to deal with their manufacture by regulation, found that impossible, and finally prohibited it. These matches are also extremely poisonous, as the Senator from New Hampshire [Mr. GALLINGER] has pointed out, and lead to many cases of poisoning among children and others. These are the reasons for the action of the House.

The disease, I may say, is caused by the fumes of the phosphorus, which is very volatile. The fumes get into the mouths of the people engaged at this work and gradually decay the jawbone, so that they lose all of the jawbone. The disease causes great suffering and is of the most hideous and awful character.

I think we may say that this is something that ought to be stopped, as all other nations have stopped it. It is utterly impracticable, as the House report states, and as everyone must know, to suppose——

Mr. BAILEY. Mr. President, will the Senator from Massachusetts permit me to make an inquiry there?

Mr. LODGE. Certainly.

Mr. BAILEY. Can the Senator tell us what percentage of the people who engage in this labor have this peculiar and horrible disease?

Mr. LODGE. I read from the House report, which contains some facts in regard to it:

> An investigation conducted in 1909 by the Bureau of Labor as to necrosis in 3 typical factories yielded some 82 serious cases. Of these 23 occurred between 1900 and 1905 and 26 since 1905. The records of all these cases are on file in the United States Bureau of Labor. At present there are 21 match factories in operation in the United States, located in 10 different States. Of some 3,400 employees in 15 of these match factories about 1,400 were found to be women; 95 per cent of the women were working under conditions exposing them to the poisonous fumes of phosphorus; 82 per cent of the children and 44 per cent of the men employed were likewise exposed.

Those are the facts taken from the Bureau of Labor.

Mr. BAILEY. It then appears that 82 cases out of several hundred employes have occurred in 12 years. The occupation is not nearly so dangerous, then, as the glass-blower's occupation. My understanding is that the glass-blower's trade is practically certain to curtail human life.

Mr. LODGE. The report also says:

> A hasty investigation of 2 of the 6 factories operated by this company, and inquiries here and there in the neighborhood, disclosed more than 60 cases, of which not less than 45 were serious, resulting in deformity or death.

There has been no system of reporting, so that it is impossible to get the exact percentage; but there is no doubt of the danger of the disease or of its dreadful character.

It is utterly impracticable to get all the States to pass uniform legislation on this subject. It would take many, many years to do it if it could ever be done at all.

Mr. BAILEY. If the Senator will permit me, many States would not need it. I think there is not a single match factory in the State from which I come.

Mr. LODGE. Then they would move to the States where there was not such a law.

Mr. BAILEY. Very well; then we would move them out if they moved into our State. We could do that.

Mr. LODGE. And they could ship matches into the State anyway. I think it is impracticable. I think everybody must see that it is impracticable.

Mr. BAILEY. Will the Senator let me ask him this question: Where does the Federal Government derive its power to destroy an occupation in a State because that occupation may injure the health of the people engaged in it? I grant you that if these matches, when committed to interstate commerce, communicated disease as they passed from one State to the other, under the authorities the Federal Government might suppress interstate commerce in them. But, as I understand, there is no claim of that kind here. The whole damage is done in the factory.

Mr. LODGE. Oh, no; the whole damage is not done in the factory, by any means.

Mr. BAILEY. The Senator can not find a single instance where any person has been afflicted with this peculiar disease, except the match-factory operatives.

Mr. LODGE. The disease of which I was speaking comes from working in the factory, but the matches are very destructive of life. There is plenty of testimony on that point.

Mr. BAILEY. Matches burn up houses. A Senator who sat near me a moment ago suggested that only yesterday he saw a box of matches ignite in a gentleman's pocket, and it came very near burning him up. That is a danger which men must take. But it is so infinitesimal that I do not believe any State yet has thought it necessary to pass a law against carrying a box of matches in your pocket.

Mr. LODGE. If the Senator will allow me, I will read another bit of testimony given before the House committee. Dr. John B. Andrews, secretary of the American Association for Labor Legislation, at the hearing of January 10, 1912, in answer to an inquiry as to how many cases of necrosis he had seen in the course of his investigation, said:

> I have personally investigated about 150 cases in this country—that is, I have secured the records of these cases, have gone to the people, and talked with them. I have talked to the match manufacturers. I have gone to the hospitals and talked to the medical men and dentists. * * * I should say I personally have seen, perhaps, 50 cases of phossy jaw. I have also seen many people who are employees of match factories suffering as a result of the poisoning. I am confident of that, because their teeth became brittle and decayed more rapidly than they ordinarily should. * * * Most of them (phossy-jaw sufferers) are very reluctant, as you can imagine, to have their photographs taken or to be brought to public attention in any way. They are so horribly deformed that they feel that way about it; but this man [presenting B. Plaza, from Passaic, N. J.] was more fortunate than many of them. This man went to the Passaic General Hospital for 59 days, and he had his lower jaw entirely removed—the whole bone was taken out—and since this man has offered to do all he could in the interest of wiping out this terrible disease. In one of the most recently investigated factories, employing only about 20 people, 3 have had their jaws cut out during the last three years.

So much as to the character of the disease. I return to the point I was making. It is impracticable to get this result by State legislation. Unless the United States Government acts, nothing can be done.

Mr. BAILEY. Where does it get the power to act?

Mr. LODGE. I will come to that in one moment. Unless the United States Government acts, we shall be put in a position that no other civilized nation on earth occupies; that, owing to technicalities under the Constitution, we can not put a stop to an industry which has the most hideous results on those engaged in it, and we are the only civilized nation that can not do it.

The Government has the power of taxation. I admit that it should be very rarely used for any such purpose as this; but it has been used. It was used in the case of oleomargarine. I want to recall to the Senate what the House committee quotes—the decision of the Supreme Court in the case of McCray *v.* The United States, upholding the constitutionality of the tax on artificially colored oleomargarine.

Mr. BAILEY. That is upon the ground that they can not inquire into the motives of the Senators in voting for it.

Mr. LODGE. Precisely. In that case the Supreme Court said:

> Since, as pointed out in all the decisions referred to, the taxing power conferred by the Constitution knows no limit except those expressly stated in that instrument, it must follow if a tax be within the lawful power the exertion of that power may not be judicially restrained because of the results to arise from its exercise.

There is no doubt that we can put a tax on matches. That was done repeatedly in the internal-revenue acts during the Civil War. We can put an internal-revenue tax on matches. If we put one on and it extinguishes a particular kind of industry, that is the result of the tax, undoubtedly; but it does not impair our power to impose a tax.

It seems to me this is one of those cases where it is absolutely necessary, in the interest of humanity, to take the only course we can to put an end to an industry which destroys people in a horrible and deforming manner.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Let me continue for one moment, Mr. President, and then I will yield.

When I refer to destroying the industry I mean that it will destroy the use of white phosphorus in the industry. The industry of making matches will go on just the same. The manufacturers will simply adopt another process. There are healthful processes. The manufacturers have no objection to using them if they are all put on one plane.

The Diamond Match Co., which has what is known as the sesquisulphide process, which was a patented process, and is a harmless one, has filed with the Commissioner of Patents a certificate renouncing all rights under its patent, and that process is now open to everybody. The red phosphorus is perfectly harmless. That can be used by everybody.

All the match factories that are now manufacturing matches can continue to do so. The bill does not injure one of them. It only prevents their using a deadly process, which is employed simply because it is a little cheaper. The bill will not increase the price of the match. The change in the process is so trifling that it will not increase the price, but it will save an immense amount of human misery and suffering.

I now yield to the Senator from Ohio.

Mr. POMERENE. Mr. President, the Senator from Massachusetts has just answered one question which I intended to ask him. That is to say, he has shown that matches can be made out of substances other than white phosphorus.

Mr. LODGE. Certainly.

Mr. POMERENE. I am in entire sympathy with the spirit of this bill. I want to ask the Senator, further, why does he postpone the date upon which this act shall take effect? I notice that section 17 provides:

That this act shall take effect on July 1, 1913, except as previously provided in this act; and except as to its application to the sale or removal of white phosphorus matches by the manufacturers, as to which it shall take effect on January 1, 1915.

What is the purpose of deferring the date?

Mr. LODGE. The purpose of delay in the House bill, which is the same as our bill, was simply to give the manufacturers an opportunity to adjust their factories to the requirements of the new processes.

Mr. POMERENE. Does the Senator feel that it is necessary to delay it so long?

Mr. LODGE. It is delayed until July 1, 1913—practically one year.

Mr. BAILEY. Why do you let them kill people for a year?

Mr. POMERENE. In the Senator's judgment, is it necessary to delay it so long as July 1, 1913?

Mr. LODGE. Mr. President, I am not at all set on that delay, if the Senate desires to make a change in that respect. But the House gave very great attention to this matter, and the bill seemed to me very well prepared. I thought the object of giving a year's delay was simply, as I say, to allow the manufacturers to adjust their business to it. I fancy if this bill becomes a law there will be very few of these matches either put on the market or made.

Mr. MARTINE of New Jersey. Mr. President, I have been very much interested in the manufacture of phosphorus matches for two years. When this horrid disease or condition was first brought to me it seemed to be utterly impossible that it could exist in a civilized community, and I say now that it would be little short of a crime did not the Senate do all it could to stamp out this horrid condition.

The Senator from Texas asks what is the purpose of the bill. I say the purpose is not revenue, but the purpose is humanity, and in Heaven's name I appeal to you as fair-minded, intelligent Senators to do all you can to aid in the passage of the bill.

We are told that it is not constitutional. Great heaven, the Constitution of the United States has stood a worse strain than this, and I am willing to take the chance at this time. As to the horrid condition of "phossy jaw," should you once see a case, I say there is no Senator who would stand in his place and plead the claims of constitutionality or any other claim in extenuation of it. I once saw a case of "phossy jaw." Women and children mainly are the employees. The fumes of the phosphorus settle in their bones, particularly it settles in the teeth of those who have decayed teeth, and ultimately it is communicated to their bones, until I have seen the bone of the right cheek of one of the operatives absolutely eaten away.

I have been much interested in it. There is an article which appears in Everybody's of April, "Matches or men," under the nom de plume Gordon Thayer. It is a nom de plume, I will say, for I know the young woman who is the author of it. She is a neighbor of mine, and has sought and ferreted out the condition and cases that are most horrid to portray. Let me read just a little of this article for the benefit of the Senate. The following question is asked of the foreman of a phosphorus-match company in the United States:

"Is the health of your operatives good?"

"We have no cases on us," he answers; "but I've only been here a short time."

"You have, however, been working at matchmaking before?"

"I've been at it 15 years."

"And in that time you've seen sickness among the workers?"

"You don't ever need to ask that question," he answers. "There isn't anyone in the business who hasn't seen it. If they tell you anything different, they lie."

The foreman's manner suddenly loses its apathy. "I'll never forget my first case," he says, with a shudder. "I've never been the same since. It's always there. I know the thing is there. I know it all the day long. I see it at night. I can't forget it. He'd been in the same factory with me. They told me what was the matter, but I didn't understand them. I went to see him. The windows of the room were wide open, but I could scarcely stay to hear him talk. He couldn't talk, really; just a kind of a mumble. But I understood. He put his fingers into his mouth before my eyes and pulled out a piece of jawbone near an inch and a half long. I ran away from him then. I've been seeing it ever since. I've been smelling it ever since."

He said he never could forget the loathsome, horrid sight nor the horrid stench.

Now, my fellow Senators, this is not a question of profit or money, nor do I believe it is a question in which the Constitution is affected, but it is a clear case of humanity, and whether laboring men and women advocate it or not, I care not; I am willing to submit the case to the laboring men and women. It will make for good and for humanity and for justice over the tyranny of a greedy money power that is pressing the present method of manufacture of phosphorus matches.

I trust with all my heart that we may have a unanimous vote upon the part of the Senate on the other side of the Chamber as well as on this side.

Mr. BAILEY. Mr. President, as between the Constitution and humanity I have long been aware that the Constitution stands small chance. But still there are a few of us living out of our time and lagging superfluous on the stage who believe that humanity remains still with the States and that the Constitution abides with the Congress of the United States.

The Senator from Massachusetts read a sentence, I think it was only a sentence, from the opinion of the court in the oleomargarine case.

If any Senator feels interest enough in this question to examine that opinion, he will find that the court predicated its decision upon the theory that Congress having the power to levy taxes, it is not competent for the court to attempt to search the hearts of Congressmen to determine the purpose for which they levy them. That has long been the doctrine of that court, and I am free to say that it is a doctrine to which I have never fully subscribed.

I believe that if a citizen of the United States can allege and prove that Congress passed a law to serve a purpose not within its powers the court ought to hear those facts and determine the law of that case upon the facts of it as they determine the law of nearly all other cases upon the facts of them.

But whatever my opinion may be about that, the rule is too well established now to be successfully assailed, and I know perfectly well that if Congress passes this act, and it is challenged in the courts, the courts will sustain it precisely as they sustained the oleomargarine act.

The tax on matches amounts to 2 cents a hundred, or 20 cents a thousand. These matches retail for 5 cents a thousand. The tax, therefore, is four times the present price of the matches. It would be a curious court that did not, in its own consciousness, understand that the purpose of this bill is not to raise revenue, because it is perfectly apparent, I might almost say on the face of it that its authors and supporters do not expect and desire to raise revenue under it.

In the case of the internal-revenue tax on matches, to which the Senator from Massachusetts refers, the purpose was to raise revenue, and the tax was fixed according to that purpose. Here the purpose is avowed by the Senator from Massachusetts, and if I were permitted to refer in this body to what has transpired in the other House I could say that the proponents and advocates of the measure there were equally as candid as the Senator from Massachusetts has been with the Senate.

The Senator from Massachusetts says that unless we can pass legislation of this kind we are the only civilized country in the world thus disabled. Does not the Senator from Massachusetts know that we are the only civilized country in the world with this particular kind of a Constitution, and that it is this particular kind of a Constitution which disables us?

Mr. LODGE. Well, Mr. President, I do not think it does disable us.

Mr. BAILEY. It would if you did practice a fraud upon it.

Mr. LODGE. If the Senator will pardon me——

Mr. BAILEY. In just a moment. Let me put this question to the Senator from Massachusetts: Does the Senator from Massachusetts believe that the Supreme Court of the United States would sustain this act if it declared that no match manufacturer should use this particular substance in the manufacture of his matches?

Mr. LODGE. No; because I do not suppose we could place that under any granted power of the Constitution.

Mr. BAILEY. Under which one do you place this?

Mr. LODGE. We place it under the taxing power.

Mr. BAILEY. But it is perversion of the taxing power, and you only escape because the court can not inquire into your purpose in levying the tax.

Mr. LODGE. But the Senator——

Mr. BAILEY. The Senator does not deny that.

Mr. LODGE. I do not deny that it is being used for the purpose of repressing the use of a poisonous article.

Mr. BAILEY. In other words, you do not deny that it is being used to accomplish a purpose which we have no power to accomplish directly.

Mr. LODGE. I think we have no power to accomplish it in any other way. It did not occur to me.

Mr. BAILEY. And the only reason we can accomplish it this way is that the court says it can not search our minds for the motive which governs our votes.

Mr. LODGE. The court goes a little further than that, if the Senator will allow me a moment. The court also said in the McCray case:

> The court can not hold a tax void because it is deemed too high. Although the effect of the tax in question may be to repress the manufacture of artificially colored oleomargarine, it is not on that account a violation of fundamental rights. An act of Congress exerting the taxing power can not be avoided on the ground that it is an abuse of power.

Mr. BAILEY. Oh, certainly not.

Mr. LODGE. And then in Veazie Bank *v.* Fenno they said:

> The power to tax may be exercised oppressively upon persons, but the responsibility of the legislature is not to the court, but to the people by whom its members are elected.

Mr. BAILEY. The legislature ought to be profoundly thankful that it is not responsible to a court.

Mr. LODGE. The court held we have the right to do it.

Mr. BAILEY. No; the court has held that it has no power to say we have done it for an unconstitutional purpose. That is all the court has said.

In the case of Veazie Bank *v.* Fenno, the question was different. The court there said that the Federal Government has the power to create a national currency, and the Congress may tax out of existence——

Mr. LODGE. I understand that.

Mr. BAILEY. Anything which obstructs the exercise of that power.

Mr. LODGE. If the Senator will allow me, I understand, of course, that the tax on State bank circulation rests on a different ground. I understand that perfectly; and it was only that definition of the responsibility to the legislature that I wished to read.

Mr. BAILEY. Mr. President, if there are ever any political opinions displayed in the Supreme Court of the United States, as sometimes happens to be the case, I would only remind the Senator from Massachusetts that the only two Democrats on the bench at that time both dissented from the judgment of the court in the Veazie Bank case, holding also that the Government of the United States had no power to tax those State bank notes out of existence. I myself think that the better reasoning was with the minority of the court. Certainly it was a better reasoning from a Democratic point of view.

But we come back at last to the proposition which the Senator from Massachusetts admits, and that is that Congress can not directly prohibit the use of white phosphorus in the manufacture of matches. The Senator from Massachusetts, advised by the learned lawyer who sits near him, admits that a direct prohibition of that kind would be fatal to the bill; but he prohibits it as effectively by this tax as if they put a prison sentence upon the manufacturer. The prohibition is as effective in the indirect case as it could be made in the direct case; but if Congress should write in the face of this bill what it desires to do, what it intends to do, and what the bill is drawn to do, it would not stand judicial scrutiny. Therefore it imposes upon the court. It circumvents the Constitution by pretending to do what it was never intended to do.

Now, if Senators are willing to trifle with the Constitution that way, I think we ought to amend it and take out of it the oath that solemnly pledges us to obey it. To circumvent it is no more permissible than to violate it; except, if you have the manliness and the courage and the directness to violate it, there is a court still left in this land with power to set your violation aside.

How long it will sit I am not, of course, able to say. How long its deliberate judgments will be permitted to stand against this general and indiscriminate attack upon our courts no man can venture to say. It may be that they will leave the court and content themselves with recalling its decisions; but until that day does come there is a court there under an oath as high and solemn as the one we took to enforce the Constitution, and I defy the advocates of this bill to write upon its face the purpose which it is intended to accomplish. They dare not do it; it would not be worth the paper upon which it is written, and no man knows it better than the Senator from Massachusetts.

Mr. President, I suppose that when they appeal to us in the name of stricken humanity all Senators hear that appeal with sympathy, and I hope none will with a tenderer and a quicker sympathy than I do. But, sir, above the sympathy for those who suffer, above pity for the unfortunate, stands the duty of American Senators to obey the Constitution of the United States.

I am one of the few men who admire what is generally considered the most odious character in all of Shakespeare's plays. I admire Shylock because when he took the bond he demanded no more than its fulfillment; and when they tempted him with more than the double return of his money, his animosity asserted itself as superior to his avarice, and turning a deaf ear to those who would bribe him to surrender the rights nominated in his bond, he said to the judge: "I crave the law." And when again entreated, he still stood firm and answered: "I stand here on my bond." Whoever can say that to the upright and learned judges of this land is always secure against my prejudice.

I sometimes believe that the great dramatist intended to exhibit this character in two of its strongest lights. First, his avarice. He seemed to love his money better than he did his daughter, because it came nearer breaking his heart that she had run away with his ducats than it did that she had run away with Lorenzo. Yet, after his pitiful lament over his daughter's flight had subsided and he wanted his revenge against the gentile who had railed against his sacred nation, he craved the law; and it is the best disproof of the Baconian theory of Shakespeare that they cheated the Jew out of his bond by a subterfuge which would never have been tolerated by any court in Christendom.

But they allowed that subterfuge to be palmed off upon the learned judge by one of the suffragettes of that day. They brought into the courthouse a girl. Some lawyers had instructed her before she appeared, and she decided, as a friend of the court, that the Jew was entitled to his bond; but that although he might take the flesh, he could take no blood with it, when every system of jurisprudence, modern or ancient, enlightened or ignorant, has always held that whenever you contract for a thing you contract also for everything necessary to carry out that contract. So if he had a right to take the flesh, he had a right to let the blood flow with it. We have revived the pagan doctrine. We can invent subterfuges to defeat the bonds we give; we can invent subterfuges to circumvent the Constitution, which we have sworn to support.

Mr. President, it may seem a heartless thing to say, but I think it would be better to close up every match factory in the United States and go back to the time when our fathers struck fire from flint than it would be to practice this kind of a fraud upon the Constitution of our country.

Mr. HEYBURN. Mr. President, I have been giving some practical attention to this question while the theories have been developed. First, I find that in this chamber of justice and statecraft we are freely using this match [exhibiting]. If some of the literature which has been sent me—and there has been a great deal—is correct in its statements and conclusions, then I should have necrosis of the jaw by this time. I find upon an examination that if you will separate the head of one of these matches the substance under the white cap will first ignite. This is evidently a shield to an inflammable, combustible head upon which it rests. I am not inclined to believe in the deadliness of everything that some one proclaims to be deadly until I have examined it a little.

The making of matches is within the recollection of most of us, or of many of us. When the old Swift & Courtney match was first made I remember being very much interested upon visiting a factory to see the method by which the sticks were put in a hopper and the room became a mass of flying splinters, which were being gathered by girls upon forms, very much as printers gather their type. When a given number of them were

in place, they were clamped, sent along on a slide, tilted over, and dipped. That was the old process, and that was a great company. The fact is they were pioneers in the manufacture of matches.

I remember before that it was the lucifer match. It is interesting to note the derivation of the name of that match. Phosphorus is supposed to be the equivalent of the words "the morning light." John the Baptist was called "Phosphorus." That is a fact. If any of you will refer to the authorities, you will find that the word "phosphorus" has always been the synonym of "morning light." So the manufacturer of the phosphorus match took that as its name.

Then we all remember, or many of us remember, when it was called the lucifer match. It came in a brown paper package, and there used to be a 1-cent stamp on it during the Civil War. That was the old lucifer match, which preceded the parlor match made by Swift & Courtney.

The substance into which matches are dipped has been long in use. It is all phosphorus, except under different conditions. I subjected myself to the fumes and the blaze of this white cap [indicating], which the Senate of the United States is distributing, at least among its Members. Every man who lights a cigar or a cigarette with one of these matches gets a closer contagion than the girls or persons who dip them. They are not dipped by hand, but they are dipped by machinery. The person dipping them does not come in contact with them. They are dipped in a fastened flat case, something after the style of the printer's type, and tilted so as to just reach a certain distance into the phosphorus or the mixture.

The disease which is termed "necrosis" means death and nothing else, does it not—death to anything? This is the very root of the expression meaning death. You may die partially, your finger nail may die and come off, but it does not follow that the whole human structure is dead; and the people who have been writing me have been writing long letters, probably not well advised, that the very fact that this would produce necrosis meant that it would kill people. I have seen those horrible pictures that were sent out.

I would control the use of such substances just as we control the use of deadly drugs in the pure-food and drug act.

Mr. LODGE. Opium, for instance.

Mr. HEYBURN. Yes; opium. I would control it; I would not allow it to be——

Mr. LODGE. If the Senator will allow me, in the case of opium, to which he has just alluded, we passed legislation to exterminate, so far as we could, the traffic in opium.

Mr. HEYBURN. Yes; but that is not a food.

Mr. LODGE. That was not for the purpose of raising revenue.

Mr. HEYBURN. That was not food; but if we can control opium, we can control this white phosphorus. It is merely produced under a different temperature; that is all. Phosphorus is used in many ways by the human family.

I suggested, if I may take the liberty of saying so to the Senator from Massachusetts, that I had some doubt as to whether or not we would best undertake to control this by taxation or whether we would control it as we controlled opium and deadly drugs. We can safely do that, because we have done it, and the courts have sustained it. Neither opium nor matches can be classed as foods, but they are substances that, if taken into the human system, destroy at least a part of it.

I would very much rather keep within the higher principle of legislation advocated by the Senator from Texas [Mr. BAILEY] and not have any question as to our constitutional right to do it. I think we can do it without subterfuge; I think we can do it by making the article contraband, as we made opium contraband; but, of course, we would have to frame very carefully a statute intended to accomplish that purpose, because the change from a comparatively harmless condition to a condition of deadly poison is both artificial and automatic; it is a chemical process; it is based upon the change of the degrees of heat to which it is subjected and the conditions under which the heat comes in contact with the article.

I do not see any difficulty, by a carefully drawn measure, in placing white phosphorus in the same category as opium or other deadly drugs that we have included in the pure food and drugs act. No one would claim that a poison is a medicine merely because you take it into your system or because it may be combined with other substances and become a medicine. My inclination is entirely against a roundabout way of doing this thing. It certainly is not so urgent, in view of the fact that we have the substance here, and I am holding it in my hand, as to preclude the practical method of having hearings or examinations upon the subject. Let us know more about the origin of the use of white phosphorus in the manufacture of matches; let us find out whether any process for the making of matches is under patent; let us find out whether any of the machinery used for the making of matches is under patent; let us find out whether any person or combination of persons would be benefited by excluding a cheaper competitor from the market.

Mr. LODGE. Mr. President, if the Senator will allow me, that has all been done with great elaboration in the House hearings, and is all set forth in the report.

Mr. HEYBURN. I sent for the House hearings.

Mr. LODGE. I mean the report sets forth facts in regard to the process of manufacture, the patents, and everything else.

Mr. HEYBURN. I know it has been done; but what was the result of its being done? Senators want to know. What is the result of the investigation?

Mr. LODGE. I think it is all in the House report.

Mr. HEYBURN. I know, but we have it not here.

Mr. LODGE. The House report is here.

Mr. HEYBURN. I have that; I sent for that and I have it before me on my desk; but the Senator would not claim that any of the information that I have suggested is contained in that document.

Mr. LODGE. It is all there.

Mr. HEYBURN. There are some statements there, but there is not responsibility behind those statements.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from New Hampshire?

Mr. HEYBURN. Certainly.

Mr. GALLINGER. The Senator has been arguing that this result, which some of us so much desire, could be reached in another and a constitutional way by dealing with it as we have dealt with drugs and medicines in the pure-food law. I should like the Senator to be a little more specific in his statement on that point—and I ask for information—in revealing to us just how that can be done.

Mr. HEYBURN. Well, Mr. President, it is not always an easy thing to draw a bill while on your feet addressing the Senate, but I will give some ideas that have come to me. I think that any attempt to curtail the consideration of a measure of this kind is apt to defeat it; any idea that a Senator will not exercise his judgment in regard to when and to what extent this measure should be discussed is more apt to defeat it than to help it.

Now, Mr. President, the substance known as white sulphur is just as well known to the commercial world as is that of sulphur in any form. It is not a recent discovery. I suppose that some chemists have been reducing sulphur to this condition for some purpose since the beginning of the making of matches. It is a perfectly legitimate subject for consideration. I have had hundreds of stereotype letters written by some one under the inspiration of some organization demanding in some cases, requesting in others, that I should do what I might do in the performance of my duties to assist in the enactment of this bill. I have given some attention to those requests. I trust I will not be open to the charge of attempting to speak about something of which I know nothing, because I have as much opportunity to know as has another.

In response now to the question of the Senator from New Hampshire as to what legislation might be offered as a substitute for that under consideration, I would say that we may deal with this substance practically along the same lines that we dealt with opium. We may first make it contraband under the law; make the having possession of it evidence of the intent to use it for an unlawful purpose; state those purposes, and provide that it shall not be used in connection with the making of matches or any article or substance to be used in the household. We can be perfectly candid about it, and name just the article——

Mr. BAILEY. Mr. President, if the Senator will permit me——

Mr. HEYBURN. Certainly.

Mr. BAILEY. The Senator will perceive in an instant that the difference between the case of the phosphorus match and the case of opium is that opium when made the subject of interstate commerce was an injurious article, whereas when the phosphorus match becomes a subject of interstate commerce it is not an injurious article. When the match is ready for sale it is not injurious to those who use it. The whole trouble is with the people who manufacture it.

It is one thing to denounce an article deleterious in its nature or composition and exclude it from interstate commerce, but it is a wholly different thing to attempt to prevent people engaged

within the States in the manufacture of a commodity from manufacturing it in any way which the State permits, because manufacturing is wholly subject to the jurisdiction of the State, while interstate commerce is within the jurisdiction of the General Government.

Mr. HEYBURN. Mr. President, I was speaking from an assumption which was not entirely in harmony with the statement made by the Senator from Texas when he was addressing the Senate a few minutes ago. He stated that this material was harmless after it had been placed upon the match, but the literature which has been sent to me sets forth that the fumes from the burning of white sulphur are also calculated to promote this disease in the jaws and teeth and undertakes to give pictures of persons who have been affected by it.

Mr. BAILEY. But the trouble is that among the 90,000,000 of our people no case of this disease has ever been found outside of one of these factories. Consequently that statement could not be sustained.

Mr. HEYBURN. It was printed; and then there was a picture of a man who had been infected, not by being engaged in the making of the match, but by the fumes.

Mr. BAILEY. If the Senator will permit me, there is testimony before the House committee that if these people would brush their teeth and keep them clean they would not contract this disease. I have not felt inclined to go into that subject, but if it is reserved to any legislative body to look after the teeth of people, I think it ought to belong to the State.

Mr. HEYBURN. Evidently I have not been as successful as I hoped to be in framing a bill while on my feet addressing the Senate. I did not expect to be very successful, because it is not a proper way in which to frame a bill. I was merely reaching out for a reply to the Senator from New Hampshire [Mr. GALLINGER]. It was not necessary that his question should be replied to in order that the position which I have taken might be sustained.

Some weeks have elapsed since this question came to my attention, and it came with a great amount of literature and a large number of letters. The letters have continued, and they now begin to bear the appearance of round robins. They are coming every day, in every mail, urging me, sometimes with reason and sometimes without, not to oppose this bill. I am not going to oppose legislation that will meet this difficulty. My interest is in seeing that the legislation which we enact shall be effective; that it shall accomplish the purpose; that we shall not enact a seeming law and put it upon the statute books and have the court that has the last word about it say, "You had no right to do it." In that event we will have accomplished nothing; we will have adjourned and gone home two or three times, perhaps, and the evil will go on.

I wonder why there has been any necessity for postponing the time when this bill shall go into effect. Why should the makers of these matches, who, if these statements are true, are criminals, be given a latitude of time in which to continue this nefarious work? That does not appeal to me. If the statements made about the manufacture of these matches are true, I would stop their manufacture before 4 o'clock to-day, if the law could be made to operate so quickly.

There is no Senator who has spoken who is more zealous, more desirous than I am of stopping this evil, admitting for the sake of argument that it is an evil. But there is no Senator in this body who is more anxious than I am that the legislation that we enact shall be lawful and within the scope of our power. I am not going to be discouraged or desist because anyone thinks I have talked too long or out of time about it. A measure reported from a committee, and in this body for consideration, is the property of every Senator; and there are no masters here.

I say that because there was a murmur of dissent when I presumed to exercise my right and my duty in submitting what I had to say about this measure. I will eventually stop that kind of thing, and stop it for good.

Mr. President, I have said what I have said because I felt that the relief sought should be reached in another way.

Mr. CUMMINS. Mr. President, I regret that the Senator from Texas [Mr. BAILEY] is not in the Chamber, because the very few moments for which I shall occupy the attention of the Senate will be devoted to a proposition which he has announced. I intend to vote for this bill, and I should be sorry to have it believed that even for the sake of humanity I would consciously vote for a measure that palpably violates the Constitution of the United States.

The Senator from Texas admits that the bill, if enacted into law, would be constitutional. But he questions the right of Senators to vote for a bill which would be constitutional because the courts of the country are precluded from entering into a consideration of the motives of those who vote for the bill.

I believe Senators who vote for the bill are in harmony with their constitutional powers. There are two Constitutions in this country—the Constitution as it was written by the fathers, and the Constitution as it has been interpreted now for more than 100 years.

I will admit that if the question proposed by the Senator from Texas had been proposed to those who made our Constitution, with the impossibility on their part of looking forward to the needs and the development of a great country, I believe they would have answered the question in harmony with his suggestion. I believe they would have said that the power to tax, although it is the power to destroy, must be exercised with a view to raising revenue, and for no other object. But now for more than 100 years the Constitution of our country has been otherwise interpreted and otherwise applied.

I do not agree to the fundamental proposition that the power to tax given in the Federal Constitution can be used only for the purpose of raising revenue.

Mr. BAILEY. Mr. President, did the Senator from Iowa understand me to say that?

Mr. CUMMINS. I did not impute it to the Senator from Texas; and I was about to go a little further toward the position which the Senator from Texas did assume.

Mr. BAILEY. The Senator from Iowa understands, of course, that I readily agree that if the Government has the right to regulate or to prohibit, it may do so through taxation as well as otherwise.

Mr. CUMMINS. Precisely. I think there is no question about that. But the position of the Senator from Texas is that inasmuch as this tax is not imposed for the purpose of regulating commerce among the States or with foreign nations, but is levied nominally for the purpose of producing a revenue, if it does not regulate commerce among the States or with foreign nations it must be levied for the purpose of creating a revenue.

I do not see any difference whatsoever in principle between a tax levied for the purpose of extinguishing the industry now under consideration and a tax levied for the purpose of preventing the importation of merchantable commercial commodities.

Mr. BAILEY. If the Senator will permit me, in my view it is the difference between regulating manufacture in one case and regulating commerce in the other.

Mr. CUMMINS. Mr. President, we have not levied taxes upon imports during all these years for the purpose of regulating commerce with foreign nations. We have levied these import duties for the purpose of preventing the admission into our country of commodities which we desired to produce ourselves. The Senator from Texas has been heard to say many times, I am sure, and there are a great many distinguished men throughout the whole history of the country who have contended, that the Congress of the United States has no constitutional power to levy taxes upon imports for the purpose of preventing those imports from seeking our ports.

Mr. BAILEY. Will the Senator permit me to interrupt him?

Mr. CUMMINS. In just a moment. I have heard it argued so many times that it is deeply impressed upon my memory that we have the power to levy these duties only for the purpose of raising a revenue.

I now yield to the Senator from Texas.

Mr. BAILEY. If the Senator from Texas has ever made the statement that we had no constitutional power to levy taxes except for revenue, it was one of those slips like he made awhile ago when he spoke as if Shylock's daughter ran away with Othello instead of with Lorenzo. I make those mistakes now and then. But if I made that statement, it was a slip, because I do not doubt our power to regulate foreign commerce; and we may regulate it by a tax as well as by any other appropriate means.

Mr. CUMMINS. Precisely. I do not recall having heard the Senator from Texas make that argument, but I have heard it so often and so generally in the debates that have occurred in the last 25 years that I know a great many people hold that view. It is just as much of a subterfuge for the American Congress to levy duties upon imports for the purpose of regulating commerce, when they do not desire to regulate commerce in any other way than to prevent the incoming of these commodities, as it is to levy a duty or a tax upon matches such as are described in this bill.

I therefore think that according to the interpretation of the Constitution of this country, as accepted by the people of the country for many, many years, we can levy taxes for the purpose of destroying a particular industry, and the welfare of the Nation in that respect is confided to the intelligence and

the patriotism of the Congress of the United States rather than to the Constitution of the United States.

I have made this suggestion because I have the same high veneration for the charter of the American Republic the Senator from Texas has, that has been so often applauded and eulogized by him, and I would not intentionally or consciously vote to pass a bill, even to meet this great emergency, that would be in violation of that instrument.

Mr. BORAH. Mr. President, I do not propose to prolong the debate. I only want to make a suggestion, in view of the vote which I shall probably cast.

I do not understand why it was not entirely practicable to treat these matches, if they are dangerous, not only during the manufacturing period but afterwards, as contraband of commerce, and prohibit their being shipped in commerce, or deny them the channels of interstate trade. Certainly if they are of such material as has been described, and their effect in the process of manufacture and their possible effect in use are such as have been described, they could have been so treated. In that event the constitutional power to deal with the subject could not have been questioned, because if these matches are injurious to commerce or injurious to the public there can be very little doubt that under the power to regulate commerce we could deny them the right of shipment in interstate commerce, and could prohibit their being entered in the channels of interstate trade.

Thus treated there need not have been much doubt about the constitutionality of the law.

The VICE PRESIDENT. If no amendment be proposed to the bill, it will be reported to the Senate.

The bill was reported to the Senate without amendment, ordered to a third reading, was read the third time, and passed.

FIFTIETH ANNIVERSARY OF BATTLE OF GETTYSBURG.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to Senate concurrent resolution 19, relative to the celebration of the fiftieth anniversary of the Battle of Gettysburg, which were, on page 5, line 14, to strike out "those" and insert "the honorably discharged veterans of the Civil War"; on page 5, line 21, to strike out "those" and insert "the honorably discharged veterans of the Civil War"; on page 5, line 23, to strike out "those" and insert "the honorably discharged veterans of the Civil War"; on page 6, line 5, to strike out "people" and insert "honorably discharged veterans of the Civil War"; and on page 6, line 7, after "rations," to insert "*Provided*, That the total expenses incurred in the execution of the provisions of this resolution shall not exceed the sum of $2,500."

Mr. OLIVER. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

CHILDREN'S BUREAU.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 252) to establish in the Department of Commerce and Labor a bureau to be known as the children's bureau, which was, on page 2, line 20, to strike out "one thousand four" and to insert "eight."

Mr. BORAH. I move that the Senate concur in the House amendment.

Mr. HEYBURN. I ask that it go to the calendar.

The VICE PRESIDENT. This is a bill which passed the Senate and comes back from the House.

Mr. HEYBURN. It comes back amended.

The VICE PRESIDENT. It comes back amended.

Mr. HEYBURN. Then it may go to the calendar.

Mr. LODGE. The motion is to concur.

The VICE PRESIDENT. The motion to concur is in order. If negatived the bill can be sent to conference.

Mr. HEYBURN. I have not understood that a matter coming back from conference can be placed beyond the consideration of the body to which it is returned where it has been amended.

The VICE PRESIDENT. But the bill has not been in conference. It is simply back from the House with a House amendment, and the proposition is that the Senate shall concur in the House amendment. If the Senate concurs it will dispose of the whole matter.

Mr. HEYBURN. I was under a misapprehension. I withdraw my objection. When it comes back from conference it will be time enough.

Mr. GALLINGER. The motion is to concur.

The VICE PRESIDENT. The question is on the motion of the junior Senator from Idaho [Mr. BORAH] that the Senate concur in the amendment.

Mr. HEYBURN. It is suggested that the motion here is to concur.

The VICE PRESIDENT. That is the motion.

Mr. HEYBURN. That motion is debatable.

The VICE PRESIDENT. Certainly the motion is debatable. If it is to be debated the Chair will lay before the Senate the unfinished business, which is Senate bill 4239, the hour of 4 o'clock having arrived.

AMENDMENT OF PRINTING LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4239) to amend, revise, and codify the laws relating to the public printing and binding and the distribution of Government publications.

Mr. SMOOT. I ask that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. The Senator from Utah asks unanimous consent that the unfinished business be temporarily laid aside. Without objection, it is so ordered.

Mr. HEYBURN. I object.

The VICE PRESIDENT. The Senator from Idaho objects to the unfinished business being temporarily laid aside. The bill is then before the Senate as in Committee of the Whole and the Secretary will report the pending amendment, which is the amendment offered by the Senator from Idaho [Mr. HEYBURN].

The SECRETARY. On page 75, line 15, before the word "dollars," strike out "eight" and insert "two" so as to read:

The superintendent of documents is authorized to furnish to subscribers the daily CONGRESSIONAL RECORD at $2 for the long session.

Mr. SMOOT. I ask the Senator from Idaho if he will not yield until I can have the amendments of the committee acted upon.

Mr. HEYBURN. I am not in a hurry to press this amendment. I will ask the Senator if he has the communication that has not been printed. There is a communication from the department with reference to this amendment, and if the Senator will make that available—it should have been printed before—it will facilitate the consideration of it. Of course, I shall not go into a debate on this measure until I have access to that document, because it is the report of the department on it.

Mr. SMOOT. Then I ask unanimous consent that a letter addressed to the chairman of the Joint Committee on Printing by the Public Printer, of date January 11, 1912, be printed as a public document.

Mr. HEYBURN. No, Mr. President; it is the report called for by the committee to which the resolution went, and it should have been printed at that time. It should have come to the Senate with the report.

Mr. SMOOT. I did not hear what the Senator said.

Mr. HEYBURN. I said the response from the secretary to the chairman of the committee should have been printed and come to the Senate with the report upon the resolution.

Mr. SMOOT. The Joint Committee on Printing asked for certain information from the Public Printer regarding the amendment offered by the Senator from Idaho; that is, as to the cost that the amendment would be to the Government.

Mr. HEYBURN. It was the ordinary request.

Mr. SMOOT. Its answer came to the committee. I have the letters.

Mr. HEYBURN. Was it not the ordinary request that is sent up by a committee to a department when the measure comes up for its consideration. It did not differ from any other request for information?

Mr. SMOOT. It did not differ from any other committee request, but those requests are never published as documents. If the Senator desires the information, I will give him copies of the letter.

Mr. HEYBURN. I will ask permission to use the original letter when I speak.

Mr. SMOOT. Certainly the Senator can have the original letter. He can have it now.

Mr. HEYBURN. That obviates one difficulty at present.

Mr. BURTON. Does the Senator from Utah desire to be further heard?

Mr. SMOOT. No; I simply wanted to continue the consideration of the bill. I ask the Senator from Idaho to yield until certain committee amendments are offered and acted upon and then we can take up his amendment.

Mr. HEYBURN. If the committee desires at this time to offer amendments and to take the action of the Senate upon them, I certainly will restrain my impatience until my amendment is reached in its order.

The VICE PRESIDENT. The Senator from Idaho expresses a willingness to delay offering his amendment until the committee amendments are disposed of.

Mr. HEYBURN. Yes; with the understanding that the consideration shall proceed.

The VICE PRESIDENT. The Chair has put no request made by the Senator from Utah in reference to printing.

Mr. SMOOT. No, Mr. President. I will withdraw that request, because I will turn the original letters over to the Senator from Idaho and he can get the information from the letters themselves.

The VICE PRESIDENT. Then the Senator from Utah desires to offer certain amendments to the bill?

Mr. SMOOT. I desire now to offer certain amendments to the bill. On page 43, line 16, before the word "copies," I move to strike out "two hundred and fifty" and insert "three hundred."

The amendment was agreed to.

Mr. SMOOT. On page 47, line 7, before the word "copies," I move to strike out "two hundred and fifty" and insert "three hundred."

The amendment was agreed to.

Mr. SMOOT. On page 48, line 24, after the word "rooms," I move to insert "and the Library of Congress, respectively."

The amendment was agreed to.

Mr. SMOOT. On page 74, line 5, after the word "Congress," I move to insert:

And the Librarian of Congress is authorized to furnish a copy of the daily and the bound CONGRESSIONAL RECORD to the undersecretary of state for external affairs of Canada in exchange for a copy of the Parliamentary Hansard, which shall be deposited in the Department of State.

Mr. HEYBURN. I ask the Senator why not deposit it in the Library?

Mr. SMOOT. This is an exchange for the Department of State. It simply conforms to a resolution passed the other day by the Senate, which has also passed the House. If the bill passes now, it would repeal that provision.

Mr. HEYBURN. Is there any provision in the bill which will result in an exchange of a copy of our RECORD for a copy of the Canadian Record that will be available to Members of Congress?

Mr. SMOOT. There is.

Mr. HEYBURN. In addition to this?

Mr. SMOOT. In addition to this. This is for the undersecretary.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Utah on behalf of the committee.

The amendment was agreed to.

Mr. SMOOT. On page 77, line 15, after the word "the," at the end of the line, I move to insert "operation of the mint service and the."

The amendment was agreed to.

Mr. SMOOT. On page 104, line 20, I move to strike out the period at the end of the line and to insert a colon and the following proviso:

Provided, That no publication not having to do with its ordinary business transactions shall be printed on the requisition of any executive department, independent office, or establishment of the Government unless the same shall have been expressly authorized by Congress.

Mr. HEYBURN. I will ask the Senator if that is intended to refer to any printing asked for by any committee of either body of Congress?

Mr. SMOOT. It is the present law, word for word, but in the preparation of the bill it was overlooked.

The amendment was agreed to.

Mr. SMOOT. On page 107, line 20, I move to strike out the words "an exigency exists which requires that work be done elsewhere" and to insert "it would be to the best interest of the Government to have work done."

The amendment was agreed to.

Mr. SMOOT. In line 21, on the same page, I move to strike out the words "which requires that work be done" and to substitute "it would be to the best interest of the Government to have work done."

The amendment was agreed to.

Mr. SMOOT. On page 115, line 14, I move to strike out the number "86" and to insert the number "85." I understood that that was done last night, but in reading the RECORD this morning I find that it was not recorded, and therefore I ask that the amendment be now made.

The VICE PRESIDENT. Without objection, the numerals will be changed.

Mr. SMOOT. Those are all the committee amendments.

EXECUTIVE SESSION.

Mr. BURTON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 1 hour and 28 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Thursday, April 4, 1912, at 2 o'clock p. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 3, 1912.

UNITED STATES CIRCUIT JUDGE.

John B. McPherson to be United States circuit judge for the third judicial circuit.

POSTMASTERS.

LOUISIANA.

John T. Charnley, Alexandria.

MARYLAND.

Richard H. Miles, Gaithersburg.

MICHIGAN.

Mathew J. Orr, Fennville.

MONTANA.

Fred W. St. Hill, Malta.

NEW JERSEY.

Charles H. Bennett, Dover.
Maurice B. Comfort, Moorestown.
James E. Jones, Florence.

NEW MEXICO.

S. M. Wharton, Tucumcari.

NEW YORK.

Homer V. Allington, Jeffersonville.
Fred F. Hawley, Lake George.
Edward Reed, Glens Falls.

NORTH DAKOTA.

Sever P. Killy, Rhame.

PENNSYLVANIA.

Mary C. Fruth, Economy.
John H. McDermott, McKees Rocks.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April 3, 1912.*

The House met at 12 o'clock m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou great Spirit, everywhere present, we stand before Thee with uncovered hearts; Thou knowest us altogether, the motives which prompt our acts, the objects to be obtained which leave their impress upon our characters for good or bad, for weakness or for strength. Create therefore within us clean hearts and renew a right spirit within, that we may build for ourselves God-like characters and thus prove ourselves worthy sons of the living God in Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 22772. An act appropriating $350,000 for the purpose of maintaining and protecting against impending floods the levees on the Mississippi River.

The message also announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 4778. An act to correct the military record of John T. Haines;

S. J. Res. 94. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress; and

S. 180. An act providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes.

SENATE BILLS AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table

and referred to their appropriate committees, as indicated below:

S. 4778. An act to correct the military record of John T. Haines; to the Committee on Military Affairs.

S. 180. An act providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes; to the Committee on Appropriations.

S. J. Res. 94. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress; to the Committee on the Library.

CHANGE OF REFERENCE.

By unanimous consent, reference of the bill (H. R. 22650) to replace section 4214 and section 4218 of the Revised Statutes was changed from the Committee on Ways and Means to the Committee on the Merchant Marine and Fisheries.

CALENDAR WEDNESDAY—OSAGE INDIANS, OKLAHOMA.

The SPEAKER. This is Calendar Wednesday. The call rests with the Committee on Indian Affairs, and the unfinished business is the bill (S. 2) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes.

The House automatically will resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, and the gentleman from Missouri, Mr. LLOYD, will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 2, with Mr. LLOYD in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that general debate be dispensed with, and that we proceed to the consideration of the bill under the five-minute rule.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to dispense with general debate and to proceed with the consideration of the bill under the five-minute rule. Is there objection?

Mr. MANN. Mr. Chairman, I think the bill ought to be discussed.

The CHAIRMAN. Does the gentleman from Illinois object?

Mr. MANN. I do.

Mr. STEPHENS of Texas. Mr. Chairman, the gentleman from Oklahoma [Mr. MCGUIRE] is the author of the bill, and he made the report. The Indians in question are in his district, and I yield to him for an explanation of the bill.

Mr. McGUIRE of Oklahoma. Mr. Chairman, I will be just as brief as possible in running over the various paragraphs, and give to the committee as near as I can an explanation of the purpose of the bill. The bill is supplementary to and amendatory of an act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma. The first paragraph of the bill simply provides that until the inherited lands of the Osage Tribe of Indians shall be partitioned or sold the Secretary of the Interior—

be, and he hereby is, authorized to pay the taxes on said lands out of moneys due and payable to the heirs from the segregated decedent's funds in the Treasury of the United States.

In the act allotting these lands a question arose as to whether the lands were taxable. The law relating to the question of taxation in the original act is as follows:

That upon the issuance of such certificate of competency the lands of such member, except his or her homestead, shall become subject to taxation, and such member, except as herein provided, shall have the right to manage, control, and dispose of his or her land the same as any citizen of the United States: *Provided*, That the surplus lands shall not be taxable for the period of three years from the approval of this act, except where certificates of competency are issued or in case of the death of allottee, unless otherwise provided by Congress.

Upon that question there was a contest by the representatives of the Indians, on petition, who claimed that under this law these lands could not be taxed unless a certificate of competency had issued. There has been one decision by the Federal court in effect that the surplus lands were taxable after three years. That is the construction of this statute by the local Federal court. From that decision there is pending an appeal. Inasmuch as the question had been passed upon by the Federal court, the committee thought it best not to interfere, and so far as this bill is concerned it leaves the question on that one decision, that the lands were taxable and are taxable now; that is, were taxable at the expiration of three years, all except the homestead. The homestead is nontaxable.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield for a question?

Mr. McGUIRE of Oklahoma. Certainly.

Mr. MURDOCK. Is this the situation in regard to the Osage Indian lands? Under a former act of Congress, I believe one passed in 1906, each Osage Indian was entitled to make four selections: First, a homestead; second, a parcel of 160 acres; third, a second parcel of 160 acres; and, fourth, a residue amounting to less than 160 acres.

Mr. McGUIRE of Oklahoma. The gentleman is correct.

Mr. MURDOCK. Is that a correct statement of the situation?

Mr. McGUIRE of Oklahoma. Yes.

Mr. MURDOCK. The homestead so selected in the first instance is inalienable and nontaxable, and does it so remain today under the law?

Mr. McGUIRE of Oklahoma. It does under the present law and it does under this bill.

Mr. MURDOCK. That is, under this bill it is not possible for the Indian to alienate his homestead as originally designated by him?

Mr. McGUIRE of Oklahoma. Well, he can not alienate; he can exchange under this provision, but the land he secures in exchange is inalienable.

Mr. MURDOCK. That is true enough on the original 160 acres which he selects, but when he selects the extra 160 acres does it become alienable?

Mr. McGUIRE of Oklahoma. Only to a limited degree, and I will explain that when I reach the paragraph, if the gentleman will permit.

Mr. MURDOCK. I would like to hear that explanation.

Mr. NORRIS. Before the gentleman leaves the first section, I would like to ask him what is meant by the expression "inherited lands" of this tribe. As I understand it there are no lands that the tribe as a tribe has inherited.

Mr. McGUIRE of Oklahoma. Well, it means the members of the tribe; the lands inherited by members of the tribe.

Mr. NORRIS. If this were enacted in the form you have it there, would it not be misleading, because there are no such lands?

Mr. McGUIRE of Oklahoma. I do not recall any lands now which might be inherited by the tribe. It was evidently intended to apply to members of the tribe, and if it is not properly expressed it can easily be amended.

Mr. MANN. Will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Oklahoma yield?

Mr. McGUIRE of Oklahoma. I yield to the gentleman from Illinois.

Mr. MANN. The Senate bill, without the amendment reported by the House committee, provides for the taxation of Indian lands under certain conditions. The House committee proposes to propose an amendment striking all that out and then says that until the inherited lands are subject to taxation the Secretary of the Interior shall pay the taxes. What does it mean by saying that until the lands are subject to taxation, which intimates that they are not subject to taxation, and pending that the Secretary shall pay the taxes?

Mr. McGUIRE of Oklahoma. With respect to the question raised by the gentleman from Illinois I will say this: There was a mistake there either by the committee or in the print of the bill. As I understand it, under the committee provision or committee amendment it would not read as the gentleman has it there, but if you would strike out, after the word "be," in line 9—and if I am wrong about it, it will have to be amended, in any event, to obviate the objection of the gentleman from Illinois—after the word "be," in line 9, if you strike out the remaining portion of that line and line 10 down to and including the word "be" in line 1 on page 2, it makes the bill as it was my understanding it should read after it was amended as it came from the Senate, and it would then read like this, and I shall propose this amendment:

That until the inherited lands of the Osage Tribe of Indians shall be partitioned or sold the Secretary of the Interior be, and he hereby is, authorized to pay the taxes on said lands out of any money due and payable to the heirs from the segregated decedents' funds in the Treasury of the United States.

I shall offer an amendment striking out those words, so as to make the bill read as I believe it was the intention to have it read, because it is unintelligible, practically, as it is.

Mr. MANN. There is no doubt about that. The Senate's proposition was to declare subject to taxation the lands after the issuance of the certificate of competency or removal of restrictions on the alienation.

Mr. McGUIRE of Oklahoma. Yes.

Mr. MANN. I understand the House amendment does not propose to subject to taxation the lands of the Indians further than they are now subject to taxation.

Mr. McGUIRE of Oklahoma. That was the purpose of the committee. The Senate provided that these lands should only become taxable after what is known under the act of 1906 as a certificate of competency should be issued to the Indians. Now, there were 2,230 at the last census of these Indians, and a certificate of competency has been issued to about 450 of them. It was the intention of the Osage people and the Secretary of the Interior and the Commissioner of Indian Affairs to have the act of 1906 provide for their taxation after three years—that is, after conditions had adjusted themselves, after the allotments had been made, and all that sort of thing, so the Senate bill provided for that taxation only after the certificate of competency had been issued.

Mr. MANN. I do not find any such word as "only" in the provision.

Mr. McGUIRE of Oklahoma. I suggested that because it means exactly the same thing.

Mr. MANN. I do not think so.

Mr. McGUIRE of Oklahoma. Well, the Senate bill provides the lands may become taxable after the certificate of competency is issued, and I inserted the word "only."

Mr. MANN. To emphasize it?

Mr. McGUIRE of Oklahoma. To emphasize it, believing that that provision will preclude the possibility of any taxes being levied upon this land under the Senate provision until after the certificate of competency has been issued.

Mr. MANN. That would depend upon the law.

Mr. McGUIRE of Oklahoma. This would be the law.

Mr. MANN. This would not change any law that provided for the taxation of Indian holdings.

Mr. McGUIRE of Oklahoma. I think it would.

Mr. MANN. Clearly it would not. This only extends the taxing power over lands that are supposedly not now taxable.

Mr. McGUIRE of Oklahoma. Either the gentleman is wrong or I am wrong. My position is this: Under the provisions of the Senate act, this paragraph as passed by the Senate, the State could not tax until after the certificate of competency had been issued.

Mr. MANN. That would depend upon other law, whether there is any provision in existing law providing for it.

Mr. McGUIRE of Oklahoma. I read the only other law there is upon the subject, and there is some question about that and it now hinges upon the decision of the local Federal court.

Mr. MANN. What is the fact now under the law? Are these lands now subject to taxation before a certificate of competency or removal of restrictions on alienations are granted?

Mr. McGUIRE of Oklahoma. The court decided under the act of 1906, the paragraph which I read a few moments ago, that the lands, all except the homesteads, were and are taxable and have been since the lapse of three years after the allotment act, or since 1909.

Mr. NORRIS. Regardless of competency?

Mr. McGUIRE of Oklahoma. Regardless of competency. That is what is known as surplus lands. Now, then, the State law provides this, that the assessment for taxation purposes includes not only the surface but minerals. Now this question has arisen. They levy for taxation purposes upon this land, and under the State law they must have considered the mineral rights. They discover gas and oil, and gas and oil on this reservation is held in common by the tribe, so they have linked the surface taxation necessarily under the State law with the mineral taxation which belongs to the tribe, a thing that unquestionably can not be, in my judgment, and I see no way out of except to call the State legislature together and change the statute, because I think ultimately on an amended petition adopted by the Osage people the court will have to change this decision in the case.

Mr. MANN. Well, the court may change the decision, but what I am interested in is what this bill proposes to do. Now, does the Senate—and the Senate provision, whatever it is, has to be considered in the House, although the House proposes to strike it out, and it may remain in the bill after the bill emerges from conference—does the Senate amendment restrict or extend the restriction over the home of the Indian?

Mr. McGUIRE of Oklahoma. The Senate provision makes no change whatever in respect to the homestead, but restricts the power of the surplus, as, in my judgment, was the purpose of the committee. The purpose of the committee in the House is to not extend or restrict the power of the legislation by the State, but allow it to remain as it is, and inasmuch as the case is now pending in the lower court, let the court decide whether the land is taxable.

Mr. FERRIS. If the gentleman will permit, the news came to the committee while they were considering this bill, in the form of a telegram as to what the Federal court had done in Oklahoma. The committee merely said that it would stand on the law of 1906, which said that all surplus land should be subject to taxation. We thought it unnecessary to legislate on the subject which had been mooted——

Mr. MANN. My understanding is that you struck out the provision of the Senate because you proposed to rent the land of incompetent Indians?

Mr. McGUIRE of Oklahoma. The agreement with these people by the Interior Department at the time of the allotment of this land, under the act of 1906, was that the surplus land should be taxed. There is no other way to provide for local government. I will explain that there were 656 acres of land for each one, and every acre was a sufficient guarantee for the Indians. They have about 655 acres each.

Mr. MANN. How long will they have it? You can take it away from them through the taxing power.

Mr. McGUIRE of Oklahoma. Just as long as the Secretary of the Interior protects them, because there is no instance in this bill or in any bill where anything may be done with the lands and funds of those incompetent Indians without the authority from the Secretary of the Interior. We provide in this bill that the Secretary of the Interior may, out of the fund of the Indians now in the Treasury of the United States, pay the tax upon this land.

Mr. MANN. Where is that provision?

Mr. McGUIRE of Oklahoma. Right here in the bill. We will reach it shortly.

Mr. MANN. I say, where is it in the bill? I would like to know.

Mr. McGUIRE of Oklahoma. There is no interest of the Indians that is not guarded in the bill. I can find it in a second.

Mr. CONNELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from New York?

Mr. McGUIRE of Oklahoma. Yes.

Mr. CONNELL. I would like to know in just a word while the gentleman is on that point, to clear it up, under this extended taxation that is proposed in the bill for these lands——

Mr. McGUIRE of Oklahoma. Not extended——

Mr. CONNELL. What will become of the minors and the children of the Indians who might inherit some of it? Are they provided for or will they become paupers, dependent on the State?

Mr. McGUIRE of Oklahoma. The bill absolutely protects in every detail the minors and persons who may inherit land who have Osage Indian blood in their veins by providing that no steps shall be taken without the approval of the Secretary of the Interior, and that is the provision now under the law of 1906.

Mr. CONNELL. That is to be perpetual under this law, that no disinheritance of these Indian children shall follows?

Mr. McGUIRE of Oklahoma. Certainly not. It is all in the hands of the Secretary of the Interior, and will be after this bill passes as it is now.

Mr. AKIN of New York. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from New York?

Mr. McGUIRE of Oklahoma. Yes.

Mr. AKIN of New York. I understood the gentleman to say that the courts had decided a certain thing. What court?

Mr. McGUIRE of Oklahoma. The Federal court of the western district of Oklahoma.

Mr. AKIN of New York. Is there not an appeal pending?

Mr. McGUIRE of Oklahoma. The most recent action, I believe, is the filing of a supplemental bill by the attorneys for the Osages.

Mr. AKIN of New York. The decision has not been rendered yet?

Mr. McGUIRE of Oklahoma. No.

Mr. AKIN of New York. That is in the air yet?

Mr. McGUIRE of Oklahoma. Yes.

Mr. AKIN of New York. After the appeal is decided by the court, where will the children come in?

Mr. McGUIRE of Oklahoma. I do not believe there is any evidence anywhere that the land will be eaten up by taxation. There is the same precaution exercised in that regard as there has always been.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Minnesota?

Mr. McGUIRE of Oklahoma. Yes.

Mr. MILLER. I would like to ask a question, and may make a statement later, as I think there is a lot of misunderstanding about this paragraph. Does not the law as it stands now provide that the surplus land shall be taxed? Is not that what the law says?

Mr. McGUIRE of Oklahoma. I think it does. The court has so decided.

Mr. MILLER. That is the decision of the court?

Mr. McGUIRE of Oklahoma. Yes; the gentleman is right.

Mr. MURDOCK. Does the gentleman mean by "surplus land" everything but the homesteads?

Mr. McGUIRE of Oklahoma. Yes; everything but the homesteads.

Mr. MANN. Is not that a controverted question?

Mr. MILLER. Yes; and I understand this bill is designed to correct that.

Mr. MANN. Why not leave it to the——

Mr. MILLER. If the gentleman will read that opening paragraph, I think he will find it does not subject any of the land to taxation—even that provision that passed the Senate—excepting that it says that after a certificate of competency shall have been issued then they shall be subject to taxation. That is the law to-day, and the courts are now construing it. These lands are subject to taxation before and after the certificate of competency.

This does not enlarge or restrict it. I think the committee believed that when it considered the question. Now, if it is the opinion of the House that we should pass legislation at this time excepting surplus lands from taxation, either before or after the certificate of competency, that is a proper subject of discussion, but it has nothing to do with this bill. Oh, the gentleman from Illinois [Mr. MANN] can smile all he likes. It could be ingrafted in the bill. If the House wants to do that, it can do so, but that is not what this bill is trying to do.

Mr. MANN. The gentleman also is a member of the Committee on Indian Affairs, and the gentleman from Oklahoma [Mr. McGUIRE] stated that the reason why the committee struck out the Senate provision was that it would limit the power of taxation on surplus lands to those Indians where the restrictions had been removed or the declaration of competency had been issued. Is that the reason assigned by the gentleman from Minnesota?

Mr. MILLER. No; it is not.

Mr. MANN. That is the reason assigned by the Committee on Indian Affairs.

Mr. MILLER. That is not what was in my mind. Anybody reading that paragraph will see that the contention of the gentleman is not well founded.

Mr. McGUIRE of Oklahoma. Gentlemen can put their own construction upon it; but, as I construe that senatorial paragraph, it would mean that this land could not be taxed until after a certificate of competency had been issued. The gentleman from Illinois [Mr. MANN] took issue with me, and, as I understand, he takes the same position as that which the gentleman from Minnesota [Mr. MILLER] takes. I may be wrong about that.

Mr. MANN. I am inclined to think that the surplus lands are not subject to taxation at all unless some other provision is inserted. The gentleman thinks that he may get a construction of the court to the effect that they are. They have not been taxed in the past.

Mr. McGUIRE of Oklahoma. I know this, that it was the intention of the Osage people to have their surplus land taxed. Every foot of that reservation was taken up in allotments. They now have an organized county. If we preclude from taxation this surplus land—and all the Osage people understood originally that it was to be taxed—then you have put a burden upon the people there who are trying to support a county, a burden that they are unable to stand.

Mr. MANN. Mr. Chairman, will the gentleman yield further?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Illinois?

Mr. McGUIRE of Oklahoma. I do.

Mr. MANN. The gentleman a moment ago and several other gentlemen on the Committee on Indian Affairs stated that there was a provision in this bill providing for the payment of taxes on surplus land owned by incompetent Indians. Where is that provision?

Mr. McGUIRE of Oklahoma. I can not put my hand on it just this second, but it is here.

Mr. MANN. Gentlemen have been seeking it, and seeking it in vain. I hope the gentleman will give it to the House.

Mr. McGUIRE of Oklahoma. That is in all cases of incompetency the Secretary of the Interior will pay the taxes.

Mr. MILLER. Would not the Secretary have to do that under the present law, without any new legislation, in looking after the affairs of his wards?

Mr. HAMILTON of Michigan. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Michigan?

Mr. McGUIRE of Oklahoma. I yield to the gentleman from Michigan.

Mr. HAMILTON of Michigan. Have the Osage Indians severed their tribal relations?

Mr. McGUIRE of Oklahoma. The Osages have a limited tribal government. Under the act of 1906 their council is recognized. They now have their councils, and the action of their council is recognized by the Secretary of the Interior in order to give validity to their local acts.

Mr. HAMILTON of Michigan. You say they have a limited tribal government?

Mr. McGUIRE of Oklahoma. Only to a limited extent.

Mr. HAMILTON of Michigan. Are their lands still held by them as a tribe, or are they held in severalty?

Mr. McGUIRE of Oklahoma. They are held in severalty. They have taken their allotments.

Mr. CAMPBELL. There are some of them——

Mr. HAMILTON of Michigan. Under what law have they this limited tribal government?

Mr. McGUIRE of Oklahoma. Under the act of 1906, known as the allotment act of the Osage Tribe of Indians.

Mr. MURDOCK. Is it a fact that every Osage child born since July 1, 1907, is without an allotment of land?

Mr. McGUIRE of Oklahoma. Yes.

Mr. MURDOCK. What would be the status of a minor child born since July 1, 1907, who was the sole heir to this land, if it is subject to taxation?

Mr. McGUIRE of Oklahoma. The Secretary of the Interior would pay the taxes.

Mr. MURDOCK. Would not the land be sold for taxes?

Mr. McGUIRE of Oklahoma. No; the Secretary of the Interior or the guardian of the child would pay the taxes on the land.

Mr. MURDOCK. Is it not a fact that the Osage child born since July 1, 1907, is also without part in the tribal funds?

Mr. McGUIRE of Oklahoma. A child born since 1907.

Mr. MURDOCK. Such a child is not only without any allotment of land, but is also without participation in the tribal funds?

Mr. McGUIRE of Oklahoma. He is in the same condition as children born in any other tribe in the United States where the allotments have been made.

Mr. MURDOCK. Is it not true that under those circumstances the land would be sold for taxes during the minority of the child?

Mr. McGUIRE of Oklahoma. It is not.

Mr. MURDOCK. Who would pay the taxes, if the child has no part in the tribal funds?

Mr. McGUIRE of Oklahoma. It is the purpose of this bill to provide for just such cases as the gentleman suggests.

Mr. MURDOCK. How can it be done if the child has no part of the tribal fund?

Mr. McGUIRE of Oklahoma. When we reach that paragraph it will be easy for the gentleman to see. It provides for minors, and for inherited lands.

Mr. MURDOCK. I do not believe it provides for minors in that event.

Mr. McGUIRE of Oklahoma. It is a matter for the House to determine when it reaches that paragraph.

Section 2 provides for the exchange of homesteads where it would be to the best interests of the allottee, the land taken in exchange to be held under the same restrictions as the original homestead.

This section is similar to section 4 of the House bill, except that section 4 of said bill provides not only for the exchange but for the sale of homesteads in certain cases. I think the provision limiting the transactions to exchanges is preferable, and I therefore see no objection to the enactment of the section.

I read that from the report of the Secretary of the Interior upon that paragraph.

Now, as a further reason for this paragraph, I desire to state that there were four choices of this land. Each Osage has about 657 acres. That includes all the land on the reservation, or 1,500,000 acres. One of them would take as a homestead in one section his first selection of 160 acres; over in another section another 160 acres, over in another a third, and the residue in the same way. That has been done in every single instance. There is no allottee on the reservation who has all his land contiguous.

At least one-third of these people are just as competent as anybody to transact their own business. Some of them do not desire to sell. They desire to exchange their allotments, so as

to bring their lands together. That can be done, and it was thought best by the council, the Secretary of the Interior, and the tribe in general that this be done. Hence this provision in the bill for the exchange of allotments.

Section 3 relates to orphans, minors, and insane.

Mr. MANN. Before the gentleman passes section 2, may I ask him a question?

Mr. McGUIRE of Oklahoma. I yield to the gentleman.

Mr. MANN. Section 2 provides that the Secretary of the Interior, where it would be for the best interests of Osage allottees, and the same is substituted to the Osage council, for recommendation to permit the exchange of homesteads for other allotments. Just what is meant by "submitted to the Osage council"? Does that mean that the Osage council must approve it?

Mr. McGUIRE of Oklahoma. It means that they must approve it.

Mr. MANN. It does not say so.

Mr. McGUIRE of Oklahoma. It means that some stronger person of Indian blood might desire to exchange allotments with a weaker or less competent person, and the Osage council desired to maintain a certain jurisdiction. It is done for the protection of the weak and against the aggressions of the strong.

Mr. MANN. The gentleman will notice, referring to the punctuation of the bill, which is sometimes important, that it provides—

That the Secretary of the Interior be, and he hereby is, authorized, where the same would be to the best interests of Osage allottees, and the same is submitted to the Osage council, for recommendation to permit the exchange of homesteads or other allotments, or any portions thereof, of Osage allottees under such rules and regulations as he may prescribe and upon such terms as he shall approve.

Mr. McGUIRE of Oklahoma. Yes.

Mr. MANN. Does that mean that if it is submitted to the Osage council, then the exchange is permitted, regardless of the action of the Osage council?

Mr. McGUIRE of Oklahoma. That certainly was not the intention. At least it never was my intention, and if it can be construed in that way I would certainly be for an amendment. It is merely for the recommendation of the council because the council desires to protect the weaker against the strong, where there was a proposed change of allotment in order to bring them closer together, in order that they may have continuous land.

Mr. MANN. Would the section which proposes to permit "the exchange of homesteads or other allotments, or any portions thereof," permit the exchange of a homestead owned by one Indian for surplus lands owned by another?

Mr. McGUIRE of Oklahoma. Yes; where the Indian desired to change the location of a homestead, unquestionably it would.

Mr. MANN. Exchanging one homestead for another is one thing. Presumably they took the best land for the homesteads, but exchanging a homestead for surplus lands is another and quite a different thing. Whether it becomes a homestead or not, I want to know what the gentleman means by it. It is not clear in the bill—"to permit the exchange of homesteads or other allotments, or any portions thereof"—whether that means the exchange of homesteads and then the exchange of other allotments, or whether it means the exchange of a homestead for other surplus lands.

Mr. McGUIRE of Oklahoma. My construction of it is that they might exchange a homestead for surplus lands or for another homestead, or for other lands, provided they got what, in the judgment of the Secretary of the Interior, is an equivalent in value; and when they do exchange, the land becomes a homestead and inalienable as under the present law.

Mr. MANN. The gentleman will understand that there is objection on the part of some persons to that provision on the ground that the original homesteads cover the best land.

Mr. McGUIRE of Oklahoma. That is a false assumption.

Mr. MANN. And to now permit the exchange of a homestead for surplus lands would be to permit an Indian to trade off his good homestead for land not so valuable for homestead purposes.

Mr. McGUIRE of Oklahoma. Well, that is a false assumption. An Indian bright enough to take up the best land for a homestead is bright enough to keep it. The position of the committee was that where it was desirable to make an exchange the Secretary of the Interior would properly guard the exchange, particularly where he has the assistance of the council.

Mr. BUTLER. Will the gentleman yield?

Mr. McGUIRE of Oklahoma. Certainly.

Mr. BUTLER. It is somewhat difficult for us to understand just what the privileges are here provided. What is the Osage council, or how is it selected?

Mr. McGUIRE of Oklahoma. It is selected by the people.

Mr. BUTLER. By the Indians?

Mr. McGUIRE of Oklahoma. By the Indians.

Mr. BUTLER. Does the gentleman know what character of Indians are usually selected for the council?

Mr. McGUIRE of Oklahoma. Yes; I know.

Mr. BUTLER. Are they selected from among the best Indians?

Mr. McGUIRE of Oklahoma. The present governor of the tribe, or principal chief, as I believe he is designated under the law, is a man about one thirty-second Indian blood and one of the very best men of the State.

Mr. BUTLER. On an exchange of land the council must be consulted?

Mr. McGUIRE of Oklahoma. Yes; to doubly guard the weak against the strong.

Mr. BUTLER. Does the gentleman think that that constitutes all the safeguards necessary?

Mr. McGUIRE of Oklahoma. I do.

Mr. BUTLER. And that they will look out for the welfare of the Indians?

Mr. McGUIRE of Oklahoma. I have no doubt about it. It is the purpose of the committee and of the Secretary of the Interior and the people who wanted this paragraph to make the lands more valuable, if possible, and to prevent their selling them.

Mr. BUTLER. I quite understand the desirability of the Indians having their lands contiguous.

Mr. McGUIRE of Oklahoma. The question was how could we guard the matter, and what was the best plan for protecting them, and we fell upon this plan.

Mr. BUTLER. My purpose is to learn whether there is a sufficient care taken, or whether the council will take sufficient care in passing upon these allotments and looking after the best interests of the Indian, and see that he is not imposed upon by some one stronger than he is. Congress can not provide the rules, and it must be referred to some tribunal.

Mr. McGUIRE of Oklahoma. I think the Secretary would be sufficient, but, as a double precaution, we provided that the council should also recommend the exchange.

Mr. BUTLER. The Secretary of the Interior must get his information largely from the council.

Mr. McGUIRE of Oklahoma. From the council and the local superintendent.

Mr. COOPER. Will the gentleman yield for a question?

Mr. McGUIRE of Oklahoma. I will yield to the gentleman from Wisconsin.

Mr. COOPER. Section 2, page 2, reads:

That the Secretary of the Interior be, and he hereby is, authorized, where the same would be to the best interests of Osage allottees, and the same is submitted to the Osage council—

Then there is a comma—

for recommendation, to permit the exchange of homesteads or other allotments.

That is not punctuated properly, but outside of the punctuation that gives the Secretary of the Interior authority to permit the exchange of homesteads or other allotments, regardless of the recommendation of the Osage council.

Mr. McGUIRE of Oklahoma. That is not the intention.

Mr. COOPER. That is what it says. He is not bound by the recommendation under this phraseology.

Mr. McGUIRE of Oklahoma. Bound by the recommendation of the council? Well, he ought not to be.

Mr. COOPER. Then what is the use of having the recommendation of the council?

Mr. McGUIRE of Oklahoma. Simply to give as much publicity to all of these propositions of exchange as possible. For instance, here will be a man of Indian blood, possibly very little and probably very little. He will desire to exchange with a full blood who has land adjacent to his own allotment. It would hardly be proper to allow these people to negotiate between themselves, because the stronger would to some extent control the weaker. The purpose was to give this as much publicity as possible, lodging the final action in the Secretary of the Interior, who is presumed to know and who would be fair between the parties who proposed the exchange.

Mr. COOPER. Does the gentleman from Oklahoma think that the Secretary of the Interior, located in Washington, 1,200 or more miles from the land, would know better what would be for the best interests of the Osage allottees than would the Osage council, chosen by the Indians themselves?

Mr. McGUIRE of Oklahoma. I think the gentleman's proposition is a little far-fetched.

Mr. COOPER. One moment; this language, which I will read again, says:

That the Secretary of the Interior be, and he hereby is, authorized, where the same would be to the best interests of Osage allottees and the same is submitted to the Osage council—

then comes the comma—

for recommendation to permit the exchange—

And so forth. Of course, that comma ought to be after the word "recommendation," and then it would read:

The same is submitted to the Osage council for recommendation, to permit—

And so forth. That is, the Secretary of the Interior is authorized to permit this exchange of homesteads, regardless of the recommendation of the council, and that is exactly what this says.

Mr. McGUIRE of Oklahoma. That is what, in my judgment, it ought to say. As to the Secretary of the Interior knowing more about local conditions than the Indians, I will say this, that simply because all of this business is lodged with the Interior Department of the Government of the United States, not only in Oklahoma, but in every State of the Union where there are Indians, it does not mean that Congress intends to say that the Secretary knows more than those who are conversant with the local conditions, but here is a department of the Government of the United States whose duty it is to look into every disputed question, by inspectors with which that department is provided, and to pass upon local disputes.

Mr. COOPER. Mr. Chairman, will the gentleman yield for a question?

Mr. McGUIRE of Oklahoma. Certainly.

Mr. COOPER. What other tribes in the United States have a council analogous to the Osage council?

Mr. McGUIRE of Oklahoma. The Choctaws and the Chickasaws.

Mr. VREELAND. And the New York Indians, the Senecas?

Mr. McGUIRE of Oklahoma. Yes.

Mr. DAVENPORT. And the Creeks?

Mr. McGUIRE of Oklahoma. Yes.

Mr. COOPER. Does the gentleman think that on this question of what will be best for the interest of the Osage allottees, and I am reading from the bill, that question having been submitted to the Osage council, the Secretary of the Interior should be permitted to disregard the suggestion of the Osage council as to what is best for the Osage allottees and permit the exchange of homesteads or other allotments without regard to an adverse recommendation of the council?

Mr. McGUIRE of Oklahoma. No.

Mr. COOPER. That is what he can do if this is enacted into law.

Mr. McGUIRE of Oklahoma. Yes; he could do a great many things that a man of good judgment ought not to be presumed to do.

Mr. COOPER. Does the gentleman think that discretion ought to be left with him?

Mr. McGUIRE of Oklahoma. I do.

Mr. COOPER. To disregard the finding of the Osage council?

Mr. McGUIRE of Oklahoma. I certainly think the discretion ought to be left with the Secretary of the Interior. Let us say that there are two Indians who desire to exchange allotments. They must first present the matter to the council, the men at home who know every condition, who know the relative capability of these parties who propose the exchange. Each will have his friends, possibly. A dispute might arise in the council. One member of the council might think that a certain proposition was fair and another might think that it was unfair. The dispute and the contention would reach the Secretary of the Interior, and what would a cautious Secretary of the Interior do in the natural course of things?

Mr. COOPER. I will answer that by saying that it would probably bring up about 50 white men to 1 Indian to labor with him.

Mr. McGUIRE of Oklahoma. I know what he ought to do, and I think the gentleman knows what a capable Secretary ought to do, and I think we have a capable Secretary. He would make a thorough investigation through his superintendents and other inspectors provided for him for that purpose, and he would take into consideration, possibly, the recommendations of the Members of Congress from that State, who are familiar with the conditions.

Mr. COOPER. I had in mind this thought: That, generally speaking, there ought to be a presumption that nobody would have so at heart the interest of the Osage allottees as would the Osage council, and that the council, familiar with all of the conditions and knowing the Indian nature better than anybody else, would be best capable of judging; but if we are to permit an executive officer 1,500 miles from this land to say that that recommendation of the Osage council does not amount to anything, though it may be a unanimous finding of the council——

Mr. MANN. What benefit can it be in any event?

Mr. COOPER. I do not understand what benefit it would be but it does seem to me that where these Indians have a council their interests as allottees are safer in the hands of that council than in the hands of any executive officer of the Government so far distant.

Mr. BUTLER. That is what I am endeavoring to learn.

Mr. McGUIRE of Oklahoma. I think it ought to ultimately be lodged with the Secretary of the Interior, but I will say this, if the gentleman is of the opinion that it ought to rest with them I would not have any serious objection to any amendment he would offer to that effect. I think the bill is right as it is drawn, however.

Mr. MONDELL. Mr. Chairman, does the gentleman think that any exchanges should be made that are not approved by the majority of the Osage council?

Mr. McGUIRE of Oklahoma. No; I do not.

Mr. MONDELL. Then, I want to suggest to the gentleman that his bill ought to be amended. The final decision ought to rest with the Secretary of the Interior; that is, the Secretary ought to have the right to veto the favorable action of the council, but in my opinion he should not have authority to make an exchange which the council does not approve, and that can be made very clear by amending the bill by striking out the words in line 8, page 2, "the same is submitted to," and in line 9, by striking out the words "for recommendation" and inserting in line 8 the words "upon the recommendation of"; and then the bill would read "that the Secretary of the Interior be, and he is hereby, authorized, where the same would be to the best interest of the Osage allottees, and upon the recommendation of the Osage council, to permit the exchange of homesteads," etc. That would require favorable action by the Osage council, and it would still leave the Secretary with authority to decline to approve the exchange, but it would give him no authority to approve an exchange that the council did not previously approve.

Mr. McGUIRE of Oklahoma. As I said before, that is a matter that I would not contend about personally. I do not much like the idea of putting the council above the Secretary of the Interior.

Mr. MONDELL. I am not proposing to do that.

Mr. McGUIRE of Oklahoma. In effect it would.

Mr. MONDELL. I am proposing to give the Secretary the veto power over the council; but what the gentleman does is to put the Secretary in a position where he is not called upon to pay any attention to the views of the Osage council.

Mr. McGUIRE of Oklahoma. I think the Secretary would pay attention to that.

Mr. BUTLER. I would not take the discretion away from the Secretary of the Interior. Mr. Chairman, I would like to ask another question.

Mr. McGUIRE of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. BUTLER. How is it possible they got in such a mix up in selecting their lands so that the lands were not contiguous when they selected them? Who was there to select it for them or assist in selecting it, if anybody?

Mr. McGUIRE of Oklahoma. There was a commission appointed, and under the allotment act they were permitted to take three first choices—first, a homestead, and then 160 acres the second choice, and then 160 acres as a third choice—and the commission found it was impossible to have them take these choices adjacent and contiguous, so that it was done that way, right or wrong.

Mr. BUTLER. I know the gentleman has plenty of information in regard to this subject, and I would like to know why they did not take up these lands which were contiguous.

Mr. McGUIRE of Oklahoma. They wanted to get lands here and there, hoping to get something better, and now they want to exchange and get them contiguous. Right or wrong, I should like to have seen them taken contiguous.

Mr. FERRIS. If the gentleman will permit, is not it also true that various lands were allotted at different times so it was rendered impossible to take the lands contiguous? I think they had three different allotments.

Mr. McGUIRE of Oklahoma. They were taken as fast as they could choose.

Mr. BUTLER. How many members were the council?

Mr. McGUIRE of Oklahoma. Twelve members.

Mr. BUTLER. Elected how frequently?

Mr. McGUIRE of Oklahoma. I think every two years.

Mr. BUTLER. In the regular way?

Mr. McGUIRE of Oklahoma. In the regular way by regular election.

Mr. McCALL. Will the gentleman yield?

Mr. McGUIRE of Oklahoma. Yes.

Mr. McCALL. Is the gentleman sure that these lands held not within limited patents are taxable?

Mr. McGUIRE of Oklahoma. Well, we have gone from that; the Federal court within a few days ago held they were taxable under the law as it is.

Mr. McCALL. I asked this question because in Michigan lands there held under patents which restrain alienation without the consent of the Secretary have been held not to be taxable.

Mr. McGUIRE of Oklahoma. This is a special enactment, and they have to pay taxes on the surplus lands. Now, in regard to paragraph 3, I will be as brief as possible, it provides—I read from the words of the Secretary of the Interior in his recommendation:

Section 3 provides for the administration of property of deceased allottees and of minor, insane, or otherwise incompetent persons, making these estates subject to the jurisdiction of the probate court of the State of Oklahoma, but retaining certain supervisory powers in the hands of the Secretary of the Interior.

This section is similar to section 6 of the House bill. In the report on said bill it was suggested that there be added to the section the words "*Provided*, That no land shall be sold or alienated under the provisions of this section without the approval of the Secretary of the Interior." This provision has been added in the Senate bill. A further amendment is necessary by reason of the transposition of certain words in the section. It is suggested that in line 18, page 2, after the word "other" and before the word "incompetent," there be inserted the words "allottees of the Osage Tribe," and that these words be stricken out of line 19. With this amendment, I see no objection to the enactment of the section.

The purpose of that provision is this: The constitution of the State of Oklahoma exempts Indian incompetents and Indian minors from its operation, and that leaves these people absolutely in the hands of Congress. Under the act of 1906 we provided that these matters be controlled by the Secretary of the Interior. Now, there have been a great many cases of inherited lands. They come up here before the Secretary for final disposition. He has had some trouble in getting accurate information and it was thought best to allow the local courts to determine who inherited, who the proper heirs were, and then pass it up to the Secretary of the Interior for his approval. We again lodged final action with the Secretary of the Interior and think that is sufficient precaution, but we give him the assistance of the courts of Oklahoma.

Mr. ANDERSON of Minnesota. May I ask the gentleman a question in regard to section 3? The section provides—

That the property of deceased and of orphan minor, insane, and other incompetent allottees of the Osage Tribe, such incompetency being determined by the laws of Oklahoma, which are hereby extended for such purpose to the allottees of said tribe.

It seems to me the better language there would be to strike out the words "hereby extended for such purpose to the allottees of said tribe." As it is, they do not mean anything.

Mr. McGUIRE of Oklahoma. If the gentleman will reserve that until we get on the bill under the five-minute rule he will have a chance to offer such amendment to strike it out. Section 4 was simply inserted for the purpose of protecting the mineral lands of Oklahoma. I think it unnecessary, but it was thought best by the Senate to insert it. Section 5 provides that the Secretary of the Interior may permit the sale of a portion instead of all the lands, as is now the law, and the committee thought it a good provision. Section 6 simply provides for the payment of the funds of the Osage people out of the Treasury of the United States, where the Secretary finds them entirely competent. Section 6 provides for a partition of the lands where the Indians can not agree. Section 7 simply provides that the lands can not be encumbered for debts, which is an additional precaution under the present law. Section 8 provides that the competent Osages, where the Secretary finds them competent, may dispose of their funds, but not until he finds them entirely competent. Section 10 simply provides for an additional appropriation. That is all I care to say, unless some gentleman desires to ask some question.

Mr. FERRIS. Will the gentleman yield?

Mr. McGUIRE of Oklahoma. I yield to the gentleman from Oklahoma.

Mr. FERRIS. In looking over this bill, there is not a single paragraph or line that permits any Indian to alienate in any way until it is approved by the Secretary of the Interior.

Mr. McGUIRE of Oklahoma. The gentleman is quite right.

Mr. FERRIS. And he can not withdraw his funds until it is approved by the Secretary of the Interior.

Mr. McGUIRE of Oklahoma. He can not.

Mr. FERRIS. And can not exchange lands until he has the approval of the Secretary of the Interior,

Mr. McGUIRE of Oklahoma. He can not.

Mr. FERRIS. This bill does not make any change in the law with reference to taxation.

Mr. McGUIRE of Oklahoma. It does not; it does not extend the power of the Indians or restrict the powers of the Indians, but simply takes greater precautions.

Mr. FERRIS. One word further. I believe these Indians get about 650 acres per capita, men, women, and children.

Mr. McGUIRE of Oklahoma. Each member of the family.

Mr. BUTLER. Up to a certain date.

Mr. McGUIRE of Oklahoma. Up to July 1, 1907.

Mr. FERRIS. Until the rolls were closed.

I have one other question that I wanted to ask the gentleman. In a family of six that would make in the neighborhood of 4,000 acres of land to that particular family?

Mr. McGUIRE of Oklahoma. Yes; it would.

Mr. FERRIS. This bill is merely to adjust and change the administration, still keeping the power within the Interior Department with reference to the money and lands as to their surplus. Is not that true?

Mr. McGUIRE of Oklahoma. It is.

Mr. FERRIS. And the gentleman has undoubtedly heard on the floor here of certain criticisms being brought to the desks of different Members by outside parties. Have any criticisms been brought to the Committee on Indian Affairs at any time?

Mr. McGUIRE of Oklahoma. None whatever. They have not even gone to the people of that country. I will say this: This will meet the approval of everybody on the reserve. Whites, Indians, and everybody are favorably to this bill.

Mr. FERRIS. I will ask the gentleman if it is not true that this bill, prior to its introduction by himself in the House and Senator OWEN in the Senate, was not submitted to the council, to the Interior Department, to the Indian Office, and every conceivable party interested in the legislation?

Mr. McGUIRE of Oklahoma. It was.

Mr. FERRIS. And was it not the unanimous agreement of all of them that this was as nearly good as we could come to it?

Mr. McGUIRE of Oklahoma. It was.

Mr. FERRIS. And it is the unanimous consent of all of them?

Mr. McGUIRE of Oklahoma. Yes.

Mr. STEPHENS of Texas. I would like to ask how it passed the House and the Senate?

Mr. McGUIRE of Oklahoma. The bill passed the House and the Senate in the last Congress. It went to conference. The report came in on the morning of the day the House adjourned, and as there was some discussion here over the question of whether there should be an additional appropriation for the Tariff Commission, there was no opportunity to bring up and adopt the conference report. This passed the Senate twice, and it has been passed upon favorably by the Interior Department twice, and by the council of the Osages, and has been approved by everybody.

Mr. STEPHENS of Texas. And is it not true that without the passage of a bill of this character matters would be left in such an unsettled condition that it would injure the Indians to a large extent?

Mr. McGUIRE of Oklahoma. It is so much that way that this is considered local emergency legislation.

Mr. STEPHENS of Texas. How much money is to the per capita credit of the Indians now in the United States Treasury?

Mr. McGUIRE of Oklahoma. Nine million dollars, all told. It is the richest tribe of people in the world.

Mr. FERRIS. If the gentleman from Oklahoma will permit?

Mr. McGUIRE of Oklahoma. Certainly.

Mr. FERRIS. In a colloquy with the gentleman from Illinois [Mr. MANN] a short time ago—I think it went into the RECORD, and, if it did not, it ought to do so—I stated, in my opinion, what this bill did provide. I would like to ask the gentleman from Oklahoma [Mr. MCGUIRE] if, in line 9, on the first page, there should be a provision to carry out the thought of the gentleman, and carry out his statement, which I thought was not true, namely, adding, after the word "land," the following words:

And surplus lands which heretofore by law were not subject to taxation.

So that their land might not be frittered away and lost by some authority of the Secretary?

Mr. McGUIRE of Oklahoma. I think it is a good suggestion, and I think the gentleman from Illinois [Mr. MANN] is right, although I took issuance with him at the time.

Mr. BURKE of South Dakota. I would like to suggest to the gentleman from Oklahoma [Mr. FERRIS] that I think the intention of the Committee on Indian Affairs was not to change existing law, either by direction of otherwise, that would en-

large the power to tax any of these lands; that is, lands that were not now taxed.

Mr. FERRIS. Precisely; but I still think that the question raised by the gentleman from Illinois [Mr. MANN] is a proposition like this: Suppose an incompetent Indian under the act of 1906 subjected his land to taxation at an amount above his homestead. Surely the authority should be vested in the Secretary of the Interior to pay the tax on the land rather than to let it have any chance to get away from the incompetent.

Mr. McGUIRE of Oklahoma. That is at present a controverted question and, as I understand it, is going to the Supreme Court of the United States.

Mr. FERRIS. It is controverted to that extent, it is true. In the act of 1896 it said all surplus lands would be subject to taxation. It has been a mooted question in my State as to whether they could accomplish that, and Judge Cottrell, who is the judge of the western district of Oklahoma, held that they were subject to taxation. That decision was communicated to the gentleman from Oklahoma [Mr. McGUIRE] while the committee was considering this very proposition.

Then, reverting to the suggestion of the gentleman from South Dakota [Mr. BURKE], it was the idea that we should not take from or add to what the existing law of 1906 provided and what the courts had held it to be. But the suggestion of the gentleman from Illinois [Mr. MANN] reaches a question still beyond that, and that is the proposition that if that act subjected certain surplus lands of incompetent Indians to taxation, and those lands are subject to taxation at some time between payments, or between times when the Indian had an available sum of money when he could himself go and pay the taxes, as he ought to do, it does not, then, seem to be out of place to vest in the Secretary of the Interior the power to go and pay them for him. He has large deposits in the hands of the Secretary of the Treasury.

Mr. BURKE of South Dakota. In order to do that you have to assume that these lands are subject to taxation——

Mr. FERRIS. That is true——

Mr. STEPHENS of Texas. In advance of the decision of the court.

Mr. MANN. Yes, if they are subject to taxation; but the amendment of the gentleman from Oklahoma [Mr. FERRIS] did not presume as to that one way or the other.

Mr. BURKE of South Dakota. Well, if it is in that form it is all right. There is no question, as I understand it, about lands that are inherited being subject to taxation?

Mr. FERRIS. No; the bill prescribes that.

Mr. BURKE of South Dakota. This bill was intended to read as follows:

That until inherited lands of Indians belonging to the Osage Tribe in Oklahoma shall be partitioned and sold, the Secretary of the Interior be, and he is hereby, authorized to pay the taxes on said lands out of any money in the Treasury, etc.

Mr. FERRIS. That applies to inherited lands, and it ought to apply to these with equal force.

Mr. BURKE of South Dakota. Now if you want to anticipate that the Supreme Court will affirm the judgment of the court in Oklahoma in holding that these lands are subject to taxation, and want to provide in such cases that the Secretary of the Interior shall pay the taxes——

Mr. FERRIS. In that connection, I think we have the right to make that assumption. We are fortunate in having here the gentleman who introduced and passed that bill, the gentleman from Oklahoma [Mr. McGUIRE]; and he states with all the earnestness that he has that that was the intention of Congress, and that Congress intended to do that specific thing. I think, therefore, we may safely assume that Congress intended to do that. And in addition to that we have the views of the Federal court which not more than two months ago passed upon that question and declared that that was so.

Mr. BURKE of South Dakota. The gentleman may be correct as to that, but I will have to take issue with him as to what the intention of Congress may have been. Congress has enacted a great deal of legislation in regard to lands in Oklahoma, and particularly with regard to their taxation, without intending to do what it is claimed was done.

Mr. McGUIRE of Oklahoma. I intended to say that it was the purpose of the Osage Indians and of the Interior Department to frame this original bill of 1906 in such a way as to tax the surplus lands after the expiration of three years.

Mr. FERRIS. It is the opinion of the gentleman that Congress did intend to do that when Congress passed the bill?

Mr. McGUIRE of Oklahoma. It was my intention——

Mr. BUTLER. Why did the Indian wish to increase his taxation?

Mr. McGUIRE of Oklahoma. They were getting the benefit of local government.

Mr. MANN. They wanted to be like the whites.

Mr. McGUIRE of Oklahoma. Why not tax their surplus? There are many of these men who are just as competent as we are to do business.

Mr. BURKE of South Dakota. In reply to the inquiry of the gentleman from Pennsylvania [Mr. BUTLER], I will say that the Indians owned all of this land.

Mr. BUTLER. I think better of the Indians if they fully pay their taxes on this land.

Mr. BURKE of South Dakota. Without the white men they could not have anything in the way of bridges or roads or other improvements, and undoubtedly they did intend that some of the land should be subject to taxation.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that all general debate be closed on the bill, and that it be read under the five-minute rule.

Mr. MANN. Mr. Chairman, I have a few words to say on this bill myself. The gentleman from Oklahoma [Mr. McGUIRE] did not get through the bill. I had hoped that he would finish.

Mr. McGUIRE of Oklahoma. I went through the bill and stated its purpose as to every section. I did that as briefly as I could.

Mr. MANN. I listened attentively to the gentleman, and I was unable to follow him further than the third section. I think the gentleman said that as to sections 4 and 5 and 6 and 7 and 8 and 9 and 10 the purpose was to pass the sections. [Laughter.]

Mr. McGUIRE of Oklahoma. The gentleman is a little ingenuous.

Mr. MANN. Mr. Chairman, the first section of the bill attracted my attention, in the first place, because it did not mean anything, as reported by the committee. I said to the gentleman from Oklahoma [Mr. McGUIRE] some time ago, in discussing the bill, that section 1, as reported by the committee, did not make sense, and he explained to me that he would read to the House a decision of the court that would show how sensible the section was. But now he frankly admits that there was an error made, and that the bill requires amendment.

Mr. McGUIRE of Oklahoma. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Oklahoma?

Mr. MANN. Yes.

Mr. McGUIRE of Oklahoma. I stated further to the gentleman at that time that there was a mistake or misunderstanding, and that it would require an amendment.

Mr. MANN. The gentleman probably imagines that he made that statement to me, but my recollection is not sufficiently good to remember it. However, that is neither here nor there.

Mr. McGUIRE of Oklahoma. Whether I did or not, it is not a serious proposition?

Mr. MANN. No; it is not a serious proposition. If the gentleman from Oklahoma [Mr. FERRIS] offers the amendment he has suggested, it may be that the Indians will be protected. I remember the occasion when the bill passed the House to subject these surplus lands to taxation.

If I am not mistaken I said then that it would not subject the Indian lands to taxation very long, because the incompetent Indians would not own them very long after they were subjected to taxation. But if that is corrected, I have no objection to that section.

In my judgment section 2 ought to be first amended and then stricken out of the bill. [Laughter.]

If it is proposed to have the Osage council pass upon the exchange of these allotments, it ought first to require the approval of the council and then the approval of the Secretary of the Interior. I propose to offer an amendment, in line 9, to strike out the comma where it now is and insert, after the word "recommendation," the words "and approved by it," so that it will provide that the proposed exchange shall be submitted to the Osage council for recommendation and approved by it, and then that the Secretary of the Interior, after that approval, shall have the right to permit the exchange.

I do not quite understand why these exchanges are desired. It would seem to be perfectly plain that if you throw open to all of the Indian homesteads the right to exchange for other homesteads the Indians will be subjected to pressure from every side to get rid of them in some way, by the exchange of homesteads, and produce a condition of unrest among the Indians which ought not to be produced. The Indian who has a homestead now ought to be using it as a homestead, reducing it to cultivation, but the moment you offer him the opportunity to trade it off, you will excite his trading desires rather than his homestead desires, and he will not be left in quiet, because every man who has a chance to skin the Indian will be proposing an exchange of homesteads, and every homestead that is

of particular value, either because of the surface of the soil or what is under it, will be subject to the temptation of having somebody making a trade with him. These trades, as a matter of course, would ordinarily be approved by the council, or generally disapproved by them, and I do not think it is fully safe to leave it even to the Secretary of the Interior, who acts through agents there, all of whom may be perfectly honest—though that would be an unusual condition of affairs in this world—but all of whom may not have the best judgment in the world. What is the object? What will be accomplished? I should like to ask the gentleman what good will be accomplished by permitting the Indian who is living upon a homestead to trade it off and move his homestead to some other place?

Mr. STEPHENS of Texas. If the gentleman will yield, I can give him one illustration. In some neighborhoods where there is rich farming land there are a good many Indian farmers; but other Indians are living far off from these points. They want to send their children to school, and by exchanging their homesteads that are in some of these out-of-the-way places they can get into a neighborhood where there is a good school which will accommodate them. Possibly some bachelor may have the land around the schoolhouse, and a man with children could exchange with the bachelor. Part of the lands are very rough and mountainous, not suitable for the location of school buildings, while others are agricultural lands.

Mr. MANN. What the gentleman says is true, but that is a very good fairy tale. What are the facts? When these allotments were made the Indians took for homesteads the best land on the reservation. Then they took some surplus lands of less value, and then they were permitted to take some additional surplus lands of still less value. Now, the gentleman from Texas [Mr. STEPHENS] says the reason they want to permit the exchange of homesteads is to permit the man who lives on poor land to come and get the best land. Why, he now owns the best land as his homestead, and if he is permitted to exchange it for surplus lands he will be relegated to places where there are no schools and where the land is poor and probably fit only for grazing. What good will it do to permit those Indians to be subjected to the temptation, from start to finish, of having a man offer them what they consider better trades in order to get their homesteads away from them?

Mr. McGUIRE of Oklahoma. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. McGUIRE of Oklahoma. I do not know whether I made it plain or not. I intended to make this statement, and it is all there is to the proposition: The large majority of these people, nearly half of whom are just as competent as anybody, many of them worth $50,000, $100,000, or $200,000, desire to get their lands adjacent and contiguous. Now, that was the sole purpose of this provision. That being the desire of all those people, including the council, the question then arose, How can it be best safeguarded? And it was thought that to put it up not only to the Secretary of the Interior, as has always been the case with all the tribes of the Union, but to take the double precaution, where a person of greater and one of lesser ability want to exchange allotments, and put it before both the local council and the Secretary of the Interior would be the best way to safeguard it. The purpose is to make their lands more valuable, and it ought to be done.

I live there; I know the situation; I know these people want it, and I know that no one is going to get hurt by it; but it will, on the contrary, add value to their lands.

Mr. MANN. It is a very desirable thing at times to leave something to the discretion of some officer; but it is never desirable to adopt a vicious principle and leave the execution of it to an officer, hoping that the vicious principle will not do any damage. If the gentleman were proposing to authorize an Indian having a homestead to exchange for the homestead of another Indian, I would not object; or if he were proposing to authorize the surplus lands of one Indian to be exchanged for the surplus lands of another Indian I would not object; but what you propose to do is to permit the homestead of an Indian, 160 acres of good land, to be exchanged so that in the end he will own as a homestead 160 acres of $2 land instead of 160 acres of $50 land, such as he owned in the first place. He might receive the difference in cash for aught I know, but his homestead would be valueless as a homestead.

Mr. McGUIRE of Oklahoma. Will the gentleman yield for a question?

Mr. MANN. If it is not too long; I do not want to lose all my time.

Mr. McGUIRE of Oklahoma. Just a brief statement. The bill specifically provides that if a homestead is exchanged the party exchanging it must have its equivalent in value, and the equivalent must be set aside as a homestead and so designated and made inalienable, as under the present law. It is not confined to 160 acres of land, but it may be more if necessary. It must be its equivalent in value, and it is done under the supervision of the Secretary of the Interior and the Osage council.

Mr. MANN. I know all that.

Mr. McGUIRE of Oklahoma. But the gentleman said 160 acres of $2 land, and it could not be done in that way.

Mr. MANN. It could be done in that way, and there is no other way if the provisions of the bill are to be executed. If they intend in good faith to follow that provision of the bill it ought to be stricken out because there will be no surplus lands of the value of the homestead land to be exchanged unless you give him a very large acreage for a homestead, and that is ridiculous.

Mr. McGUIRE of Oklahoma. It is not ridiculous.

Mr. FERRIS. Will the gentleman allow me? I know the gentleman from Illinois has not skipped a single word in the bill or a single thought, and therefore he knows that the decision in the last analysis is left to the Secretary of the Interior.

Mr. MANN. I know that, and I have so stated half a dozen times.

Mr. FERRIS. Yes; and I am simply stating it for another purpose. The Secretary of the Interior is the one who made the first allotment to the Indians. This gives him no greater power than he had in the first place, but it gives him the right to revise and to make his first decision stronger and better than he did in the beginning.

Mr. MANN. Oh, this is quite a different thing.

Mr. FERRIS. If he made any mistakes in the first allotment he ought to be allowed to correct them.

Mr. MANN. I am willing to allow the Secretary to correct any errors if he made any. In the first place, the allotments were made of homesteads of the most valuable lands. Then there was another allotment made of the surplus lands, and a third allotment was made of additional surplus lands so as to even up the property allotted to each Indian. The best lands were taken for the homesteads and the poorest property was in the last allotment. Now, when you authorize by law any homestead in the reservation to be exchanged for surplus land you subject any white man to undue pressure, and much less incompetent Indians. Everybody knows that the white man of Oklahoma Territory has no special objection to taking possession of some of this land, even if the Indian loses it. [Laughter.]

Mr. Chairman, just for illustration, we have in the United States, all told, only a trifle more than 300,000 Indians. We have an Indian bill now coming in that proposes to appropriate six or eight million dollars for their care and support. If we made the same proportionate appropriation for the aid of the white people of the United States, it would take more than $2,000,000,000 a year. Why do we have to appropriate this money out of the Treasury of the United States? We say that the Indians are our wards and that we permitted them to lose their property, to trade it off to the whites or lose it, and therefore we feel under obligations to give them support. I am in favor of first protecting their property and see that they are treated fairly and see that we are treated fairly, so that we will not be compelled to constantly pay money out of the Treasury for the support of these Indians, who ought to be supported out of their own property.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MANN. I will.

Mr. STEPHENS of Texas. Is it not a fact that a great deal of this money which is appropriated for the support of the Indians is trust funds in the Treasury of the United States belonging to the Indians, and that the money allotted among the Indians by the Indian appropriation bill comparatively little of it is a pure gratuity?

Mr. MANN. I think that is not the fact. A large share of it comes out of the Treasury of the United States and does not come out of the trust funds of the Indians.

Mr. COOPER. Will the gentleman yield?

Mr. MANN. I will yield to the gentleman from Wisconsin.

Mr. COOPER. Are homesteads limited to 160 acres?

Mr. MANN. I think, in the first place, they were allotted 160 acres for a homestead.

Mr. McGUIRE of Oklahoma. One hundred and sixty acres.

Mr. COOPER. Then I would like to ask this question, which was suggested by the gentleman from Minnesota [Mr. ANDERSON]: Suppose an Indian wants to exchange 160 acres for much poorer land; he would have to receive much more than 160 acres to make it equivalent to the homestead, and would it be lawful to declare the greater amount a homestead?

Mr. MANN. We would have the right to declare the greater amount a homestead. We might give an Indian 2,000 acres, but everybody knows that that is a ridiculous proposition.

Mr. CARTER. I want to say that some of the Indians of the Five Civilized Tribe have 500 or 600 acres in homesteads.

Mr. MANN. I am glad of it. Mr. Chairman, there has been some discussion about section 3 as to what is the meaning of the language—

That the property of deceased and of orphan minor, insane, or other incompetent allottees of the Osage Tribe, such incompetency being determined by the laws of the State of Oklahoma.

The use of the language in the bill is not very happy in that it confuses, as it seems to me, the question of competency as declared by the Secretary of the Interior to dispose of the lands, and the question of incompetency fixed by the laws of the State.

The incompetents in the State are the insane, minors, idiots, possibly spendthrifts. As I understand that provision in reference to fixing incompetents by the State of Oklahoma, it would not provide that that State would have any control over the question of competency as fixed by the Secretary of the Interior so as to authorize the sale of lands, or anything of that sort, beyond the control or over what we usually call incompetents in all States.

But I would like to ask the gentleman, in view of the language "subject to the jurisdiction of the probate courts in the State of Oklahoma," does the State of Oklahoma have a court by the title of probate court?

Mr. McGUIRE of Oklahoma. The statute, I think, has been changed since the bill was first drawn. It is now the county court.

Mr. MANN. I do not think it was changed since the bill was drawn.

Mr. McGUIRE of Oklahoma. I mean the original bill.

Mr. MANN. Because in another provision it speaks of the county court.

Mr. DAVENPORT. The county court exercises probate jurisdiction.

Mr. MANN. The committee has recommended striking out section 5, restricting the alienation of all or a portion of the surplus lands of any Osage allottee, and so forth. This bill will go into conference, if it passes the House, and probably would emerge from conference with that section in it, and when the bill is read under the five-minute rule I shall offer an amendment to strike out the language "register of deeds for Osage County" and insert "Osage Agency." It seems to me the form of the bill as it came from the Senate is unworkable. It proposes where the removal of restrictions is made that the public records shall be kept in the office of the register of deeds for Osage County, showing what land each allottee is authorized to alienate. How would they get into the possession of the register of deeds and who would pay the expenses? Would they be recorded in the registry of deeds? Who would know anything about it? No one, until he got ready to take the land from the Indian. If the restrictions be removed, there ought to be some public place where anybody can go and obtain information, and the only place you can do that is with the Osage agencies.

Mr. FERRIS. Mr. Chairman, I might say that we struck that out for the very reason the gentleman from Illinois has stated. We thought the Congress of the United States ought not to try to impose upon a county official a duty for which there was no money to pay him and which there was no way to require him to do.

Mr. MANN. There is no way of giving it to him.

Mr. FERRIS. Yes; and we struck it out for that reason.

Mr. MANN. As to section 5, I would suggest to the gentleman that the language is somewhat mixed.

Mr. CARTER. Is that the present section 5?

Mr. MANN. Section 6 of the original bill—

That the Secretary of the Interior, in his discretion, hereby is authorized, under rules and regulations to be prescribed by him and upon application therefor, to pay to Osage allottees, including the blind, crippled, aged, or helpless, all or part of the funds in the Treasury of the United States to their individual credit.

If you stop there, you ought not to insert the word "insane," but with the proviso that is in here you must insert the word "insane" as descriptive of the class of incompetents. Then you go ahead with the proviso that he shall be first satisfied of the competency of the allottee, which, of course, would not include an insane person—

or that the release of said individual's trust funds would be to the manifest best interests and welfare of the allottee: *Provided further*, That no trust funds of a minor or a person so afflicted as above mentioned, or an allottee non compos mentis shall be released and paid over except upon the appointment of a guardian.

And so forth.

You have made no provision in there in reference to the funds of the insane person in the first part of it. You must insert the word "insane" above or strike it out in your second proviso.

Mr. FERRIS. It ought to be inserted, undoubtedly.

Mr. MANN. The original section 7 provides that from and after the approval of this act the lands of deceased Osage allottees, unless the heirs desire to and can agree as to partition of the same, may be partitioned or sold upon proper order of the county court of Osage County, State of Oklahoma. I had a note in my copy of this bill to strike out "the county court of Osage County, State of Oklahoma" and insert "in a court of competent jurisdiction." I presume there is no objection to that, because I have since been told that the county court did not have the power of ordering a partition of property in that State.

Mr. McGUIRE of Oklahoma. Congress has the authority to give it the power.

Mr. MANN. Yes; but if they have no authority under the State law they would not have authority to exercise that power.

Mr. McGUIRE of Oklahoma. Yes; they would. The Supreme Court has decided that if Congress grants jurisdiction to a court with respect to Indian matters, that court has jurisdiction.

Mr. MANN. I beg the gentleman's pardon. We have no power to compel the State court to do anything, and if the State laws provide, as I understand they do in this case, that another court of superior jurisdiction shall have jurisdiction over partition proceedings, we may say that the county court shall have jurisdiction, but the county court can not exercise the jurisdiction, because it must exercise jurisdiction under the laws of its own State first.

Mr. McGUIRE of Oklahoma. In the case of Indians, the courts can exercise jurisdiction given by the Congress of the United States, but, notwithstanding that, I think the gentleman's suggestion is a good one.

Mr. FERRIS. Mr. Chairman, I am not sure that I caught all of the gentleman's suggestion, but I think this same identical question was under consideration when the gentleman from Oklahoma [Mr. CARTER] had a bill here, and I think the gentleman from Illinois [Mr. MANN] raised that same question at that time. At that time this identical question of conferring jurisdiction on a State court was submitted to the Attorney General's office at the suggestion of the gentleman from Illinois, and the Attorney General's office was of the opinion that Congress could confer jurisdiction.

Mr. MANN. That was an entirely different proposition.

Mr. CARTER. Yes; that was a different proposition.

Mr. FERRIS. It was a question of conferring power of appointing appraisers.

Mr. CARTER. That was in respect to the question of a Federal judge, as I remember.

Mr. MANN. We can undoubtedly confer power upon the local court to appoint appraisers, but we could not compel the court to exercise the power. In this case the county court could not exercise the jurisdiction, because the State court has conferred jurisdiction in partition matters upon another court, so that neither one could exercise the jurisdiction if this bill passed.

Mr. FERRIS. What was that statement—that the county court could not order a partition and sale?

Mr. MANN. That is what I have been told.

Mr. FERRIS. That is not the case. The county court has the power to order a partition and sale.

Mr. MANN. The gentleman knows better than I do. I have been informed that the district court in the gentleman's State has control over partition matters.

Mr. FERRIS. In estates.

Mr. MANN. But this is not a matter of estates.

Mr. DAVENPORT. Our district court is the only court that has the power to order a partition of interests in inherited estates, or any other estates.

Mr. MANN. I am not speaking of probate proceedings.

Mr. DAVENPORT. I wanted to explain that in probate matters, ordering a sale of minor's land, upon proper showing, they have that power, but they have no power in the probate court to handle the landed estate except to see that it goes to the proper heirs.

Mr. FERRIS. I think the gentleman is wrong about that.

Mr. DAVENPORT. No; I am not.

Mr. MANN. In the original section 7 of the bill, on page 6, in line 11, it provides:

The shares due minor heirs, including such Indian heirs as may not be tribal members, and those Indian heirs not having certificates of competency, shall be paid into the Treasury of the United States—

And so forth. I do not understand just what is intended to be accomplished by that. Does the gentleman mean shares due to minor heirs, including minor Indian heirs? You say—

the shares due minor heirs, including such Indian heirs as may not be tribal members.

That might include heirs 90 years old.

Mr. McGUIRE of Oklahoma. Members, I suppose, of another Indian tribe. You see, they have intermarried.

Mr. MANN. But you say—

minor heirs, including such Indian heirs as may not be tribal members——

Mr. McGUIRE of Oklahoma. That is right.

Mr. MANN. It may mean such minor heirs, or that Indian heirs who may not be tribal members. Do you propose to include under the term "minor heirs" adults who are members of the tribe?

Mr. McGUIRE of Oklahoma. We do not, of course.

Mr. MANN. Well, you say it.

Mr. JACKSON. It says before that—

if some of the heirs are competent and others have not certificates of competency, the proceeds of such part of the sale as the competent heirs shall be entitled to shall be paid to them without the intervention of an administrator.

Mr. MANN. That does not cover this. These Indian heirs may or may not be competent. The provisions in your section is you dispose of lands of competent Indian heirs, and here is a provision which says minor heirs shall include other Indian heirs not members of the tribe. Now, if the purpose is to include only minor Indian heirs you should say so; if not, let us know what it does mean.

Mr. CARTER. If the gentleman will permit, I think that clearly means enrolled Indians on other than the Osage tribal rolls. As to whether it is intended to include those who have reached their majority, I will not attempt to say.

Mr. MANN. It does include those who have reached their majority under the term "minor heirs." That is what I want to know, whether that is the purpose or not. It then provides that this money shall be paid into the Treasury of the United States and placed to the credit of the Indians upon the same conditions as attached to segregated shares of the Osage national fund or paid to the duly appointed guardian. Will the gentleman object to inserting, after the word "or," the amendment "with the approval of the Secretary of the Interior"?

Mr. McGUIRE of Oklahoma. I would not object.

Mr. MANN. Because that is the only safeguard. Without that, if somebody has managed to get a guardian appointed for an Indian and the guardian gets the money, God knows what will become of it. Now, the committee struck out "or be disbursed in such manner and to such extent as the Secretary of the Interior may determine." What does the committee expect to be done with this money?

Mr. FERRIS. I will say these funds are held subject to be disbursed as Congress may provide, and every session of Congress we have provided a certain per capita payment shall be made and trust funds turned over, and we do not ordinarily give the Secretary of the Interior power to expend in an unlimited way the funds of the Indians. With that language left in the bill the Secretary could expend for any purpose all the funds, if he wanted, and for any purpose he saw fit, and the committee did not think he ought to have that much authority.

Mr. STEPHENS of Texas. In other words, become part of the tribal funds.

Mr. MANN. What are those conditions?

Mr. FERRIS. We have had other funds subject to the same restrictions as undistributed trust funds. They are held in trust, drawing 4 per cent interest, for the benefit of the tribes, and deposited in different depositories and interest paid at intervals.

Mr. CARTER. I think the amendment offered is a much better restriction than the one stricken out.

Mr. MANN. In the original section 8, which provides:

That the lands allotted to members of the Osage Tribe shall not in any manner whatsoever or at any time heretofore or hereafter be encumbered, taken, or sold to secure or satisfy any debt.

The committee recommended the striking out of the words "or at any time heretofore or hereafter." I take it there can be only one purpose in that, and that is to authorize the encumbrances which have been made upon these lands heretofore to have some effect.

Mr. CARTER. Does the gentleman think as amended it would do that?

Mr. MANN. What is the purpose in striking it out?

Mr. CARTER. I do not object, but I want to get the gentleman's opinion on that point. I agree with the gentleman that ought not to be done, and——

Mr. MANN. What is the purpose of striking it out?

Mr. CARTER. And I do not think the change does that. I can not give the gentleman that information.

Mr. MANN. I know there can be no other purpose in striking it out, except——

Mr. JACKSON. I remember that in the committee, and it appears on the face of it that it is mere surplusage. If you are going to permit the allottee to encumber his land in any way what is the use of saying at any time or heretofore or hereafter or any other time?

Mr. MANN. There is some use to say any time hereafter when you say they shall not do it, but it is quite necessary sometimes to say it shall not be done heretofore, and that is what this means.

Mr. JACKSON. It does not make sense to say——

Mr. MANN. It does make sense.

Mr. JACKSON. When the legislation takes effect in the future——

Mr. MANN. It takes effect in the future—that they shall not hereafter do it—but why should not we provide at the same time that if they have done it in the past it shall not be legalized?

Mr. JACKSON. I do not know that there is any objection to that.

Mr. FERRIS. If the gentleman will turn to line 7 he will see—

That no lands or moneys inherited from Osage allottees shall be subject to or be taken or sold to secure the payment of any indebtedness incurred by such heir prior to the time such lands and moneys are paid to such heirs.

Mr. MANN. Why did the committee propose to take out this other language?

Mr. FERRIS. Because they thought this would apply.

Mr. BURKE of South Dakota. I think that was done on a motion of mine. As it read it said—

That the lands allotted to members of the Osage Tribe shall not in any manner whatsoever, or at any time heretofore or hereafter, be encumbered.

That is not very good English, and the intention was to absolutely limit it, and it should not be done at any time. Heretofore means something in the past.

Mr. MANN. We know what it means. I wondered why it was stricken out.

Mr. BURKE of South Dakota. I will say to the gentleman it was done entirely at my suggestion, believing it would improve the language of the bill, and there was no other thought.

Mr. MANN. I recognize the gentleman as authority upon English grammar now more than ever.

Mr. CARTER. If the language had been left in it would mean nothing, because if a legal transfer were made prior to the passage of the bill it could not be vitiated by a later enactment, and if it were not legal when made this would not confirm it.

Mr. MANN. We have control over the lands of these Indians, and here you propose to insert a provision saying it shall not be encumbered in the future to pay debts. We have the same authority to say an encumbrance already made to secure debts, not if it had good validity——

Mr. CARTER. Not if it had validity when it was made.

Mr. MANN. No validity.

Mr. CARTER. I do not think the gentleman would contend that it should give them validity.

Mr. MANN. I do not know whether it does or not. I am in favor of declaring that if they had attempted to encumber these lands to pay debts they should not now.

Mr. CARTER. I wanted to ask the gentleman what he would have said if we had left the original language in the bill?

Mr. MANN. I would have said that for once the Committee on Indian Affairs was trying to protect the rights of the Indians. [Laughter.]

Mr. COOPER. Will the gentleman permit an interruption?

Mr. MANN. Certainly.

Mr. COOPER. It seems to me there could be an improvement in lines 10 and 11. How do they "pay" land to heirs in Oklahoma? [Laughter.]

Mr. MANN. That is like the first section, where it says that "no land shall be taken to secure the payment of any indebtedness." What do you mean by the word "secure"?

Mr. McGUIRE of Oklahoma. I beg the gentleman's pardon. I did not get the question.

Mr. MANN. The gentleman can not answer that. Possibly he can answer this one. The Senate had this provision in:

Incurred by such heir prior to the time such lands or money are turned over to such heirs.

And our Committee on Indian Affairs turned over to the heirs and provided that no such money should be given to the heirs. I do not know, of course. Probably they find that in some school of rhetoric. The gentleman from Wisconsin [Mr. COOPER] very naturally inquires how you "pay" land to a man. I assume that the Committee on Indian Affairs——

Mr. CARTER. How would you "turn over" land?

Mr. MANN. That is very easy. You would turn it over by deed. I assume that the Committee on Indian Affairs must

have reason for striking out "turning over" lands and inserting "pay" lands. [Laughter.]

Mr. McGUIRE of Oklahoma. Would the gentleman be satisfied with the word "transfer" or "convey"?

Mr. MANN. There is nothing of the kind in the original proposition. It says:

The time said lands and moneys are paid to such heirs.

Mr. JACKSON. Perhaps the Committee on Indian Affairs thought the lands had been turned over too many times.

Mr. MANN. It appears that originally the Osage allottees were paid on the order of the Secretary of the Interior. Now it is upon the order of the county court of Osage County. Who will make the order? And to whom will it be made? How will the order apply?

Mr. COOPER. Will the gentleman permit an interruption there?

Mr. MANN. Certainly.

Mr. COOPER. Does the gentleman think there ought to be any restriction as to the amount that can be paid for a coffin in which to inter one of these aborigines? I have just been told that in one case a coffin in which to bury an Indian cost $800.

Mr. BUTLER. He was a good Indian. [Laughter.]

Mr. McGUIRE of Oklahoma. The gentleman does not mean to say that it costs a member of this tribe $800, does he?

Mr. COOPER. No; not this tribe, but it was done with the approval of the Secretary of the Interior, just like this provision.

Mr. McGUIRE of Oklahoma. That might have occurred in Wisconsin.

Mr. BUTLER. That was taken out of his own money, probably.

Mr. COOPER. No; I presume the county court checked it out of its own funds. [Laughter.] Probably it was taken out of the fund—$800.

Mr. MANN. I suppose there is more satisfaction to a dead Indian to have his money expended in an elaborate funeral than to spend it in his lifetime. I have often seen cases where that was true with respect to white people, using the word "satisfaction" in a little different meaning. But the probate court can not do this. The probate court can approve the funeral expenses, but it can not make an order for the payment of this money which is in the Treasury of the United States.

Then, this provision is in here, providing that "nothing herein shall be so construed as to exempt such property from liability to taxes." Of course, if it is liable to taxes, it is not necessary. If it is not liable for taxes it should have no place in the bill.

Now, Mr. Chairman, I hope this bill will be amended in some particulars so as to make it a workable bill and so as to protect the Indians.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask unanimous consent that after 10 minutes general debate be dispensed with and that the bill be read under the five-minute rule.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent that general debate be closed in 10 minutes and that the bill be then read under the five-minute rule. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, I hope that this bill will be voted down.

There are two classifications of land in the Osage part of the West, roughly—bottoms and uplands. Almost without exception the bottom land is the more valuable land taken in comparison with the uplands. In the law of 1906, in which the Osage Indians were allotted their land, it was provided, first, that the Osage Indian should select 160 acres as a homestead. The Osage Indians have been in their present territory now for over half a century. Many of the Indians had actual homesteads before the time of allotment. There were some improvements in the way of houses and barns and fences on some of these homesteads. Under the law of 1906, naturally an Indian did one of two things: He either selected his old homestead, which was in the bottoms, or he went somewhere else and selected a valuable bottom 160 acres.

Now, the law of 1906 also provided that after the first allotment of 160 acres the Indian could select a second parcel, another 160 acres; that after he had made the second selection he could make a third, also of 160 acres; and that thereafter he could have his share of the residue remaining after the distribution of the whole.

Now, it happens that the first 160 acres selected as a homestead in Oklahoma is worth something like $25 an acre; that the second selection, the uplands, the rocky land, is worth about $4 an acre; and the residue is probably worth still less.

Mr. McGUIRE of Oklahoma. Will the gentleman permit an interruption?

Mr. MURDOCK. Certainly.

Mr. McGUIRE of Oklahoma. That statement is absolutely without any facts to base it upon. I do not know where the gentleman gets that kind of information. You can not get it from the Osage Agency, and you can not get it from the Osage people, and you can not get it from the Interior Department.

Mr. MURDOCK. I think the gentleman will find that that statement will be fully substantiated if he makes inquiry at the Interior Department. In any event, the first selection of a bottom homestead was a selection of valuable land.

The value of bottom land, as the gentleman knows, runs over $25 an acre—sometimes $50 an acre and sometimes $100 an acre, according to proximity to city, and sometimes to $150 an acre, whereas sometimes the high and rocky land, as mentioned by the gentleman from Texas [Mr. STEPHENS], will not bring as much as $4 an acre.

Now, the act of 1906—if the gentleman will permit—provided that the Indian should not alienate the homestead. That was our guardianship over the Osage Indians, not the guardianship of the Osage Council or of the Secretary of the Interior, but the protection of the law.

Mr. ANDERSON of Minnesota. Will the gentleman yield?

Mr. MURDOCK. With pleasure.

Mr. ANDERSON of Minnesota. I find on page 6 a provision that reads as follows:

When the heirs of such deceased allottees have certificates of competency or are not members of the tribe, the restrictions on alienation are hereby removed.

I have been trying to find out all through this debate what the general restrictions on alienation are, if there are any.

Mr. MURDOCK. I confess to the gentleman that I do not know. There was a provision in the law of 1906 that this homestead land should not be alienated and that it should not be taxed for 25 years.

Mr. Chairman, I have never had my fund of sentimentality drawn upon heavily by the noble red man. He is not always noble, and not infrequently he is not red. I have lived all my life in territory which was once Osage reserve. I have seen some of the migrations of the Indian tribes into their present holdings. The relation of the white man to the Indian in this country from the first has not been flattering. The Indian did not have much civilization at the start. His civilization was a different civilization from that of the white man, not only in degree, but also in kind. When he was removed to a reservation his condition became, as most of the Members here on the floor from my part of the country know, pitiable.

Members talk here about the Osage Indians being the richest tribe on earth. They are the richest tribe on earth, and have been that for many years; but what has been the condition of the Osage Indians in the past—even within the last 10 years? The term "riches" ought not here to convey the idea of luxury. When I was first elected to Congress, one of the things which stirred my young legislative breast and led me to believe that I could be of use down here in the matter of reform was in connection with my desire to wipe out the then existing "prorate house." As the gentleman from Oklahoma will remember, the "prorate house" was a small shack on wheels, occupied by the white traders of the Osage Nation. On the quarterly payment day, when the members of this richest tribe on earth received their portion of annuity from the Government of the United States, they were paid their money at the window of the agency by the agent. The white traders used to roll the prorate house around in front of the window of the agency, form a cordon of white men on either side a lane, and as soon as one of the members of this richest tribe on earth received his Government annuity, grab him and conduct him summarily through the gauntlet into the wheeled house of the traders. Just what then happened to him, no outside white man was ever able to find out, but the tradition was that the Indian's money was taken away from him, prorated among the traders to whom he was indebted, and the Indian thereupon was turned loose to contemplate the advantages of affluence.

Now, the Osage Indians are the richest tribesmen in the world; but the full-blood Osage Indian ought not to be left unprotected by this Congress. For him his homestead allotment is the last ditch. He ought not to be left to the mercy of some county officer in Oklahoma or to the Osage council, or to the Secretary of the Interior in the matter of alienating his homestead. We ought to keep our guardianship over him intact, and the way to keep it intact is to beat this bill if the provision for the exchange of homestead remains in it. The

minute you pass this bill, and permit the Indian to exchange his homestead of 160 acres for another homestead of any extent, of supposedly equal value, that minute there will begin a movement in the Osage country which will take the valuable bottom land out of the hands of the full-blood Indian and place it in the hands of his more intelligent Indian brother, or the white man. [Applause.]

Mr. STEPHENS of Texas. I ask that the bill be now read under the five-minute rule.

The CHAIRMAN. Under the order of the committee general debate is now closed, and the bill will be read for amendment.

The Clerk read as follows:

Be it enacted, etc., That from and after the approval of this act all allotments belonging to members of the Osage Tribe of Indians, except homesteads, be, and the same hereby are, declared subject to taxation, under the laws of the State of Oklahoma, from and after issuance of the certificate of competency or removal of restrictions on alienation: *Provided*, That inherited lands shall be subject to taxation from and after the date of death of the allottee; and until said lands be partitioned or sold the Secretary of the Interior be, and he hereby is, authorized to pay the taxes on said land out of moneys due and payable to the heirs from the segregated decedent's funds in the Treasury of the United States.

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Strike out, after the enacting clause, lines 3, 4, 5, 6, and 7, and line 8 to and including the word "*Provided.*"

The CHAIRMAN. The question is on the committee amendment.

Mr. MANN. Mr. Chairman, before that is put, I should like to know what the gentleman is going to do with reference to the balance of it?

Mr. McGUIRE of Oklahoma. As soon as that is stricken out, I will offer an amendment.

Mr. MANN. The gentleman from Oklahoma [Mr. FERRIS] had an amendment to go in there.

Mr. McGUIRE of Oklahoma. As soon as the vote is taken to strike out the Senate provision and insert the House provision I am going to move a further amendment, which I think will meet the intention of the committee.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. McGUIRE of Oklahoma. Mr. Chairman, as a further amendment, in line 9, page 1, I move to strike out the words "subject to taxation from"——

The CHAIRMAN. Is the gentleman undertaking now to offer the other committee amendment?

Mr. McGUIRE of Oklahoma. I did not know there was any other committee amendment.

Mr. MANN. This ought to be disposed of before we vote on the committee amendment.

The CHAIRMAN. The committee amendment is first in order.

Mr. MANN. I know that is ordinarily the case, but that is not requisite, and the gentleman offers an amendment which ought to be offered before the committee amendment is disposed of.

The CHAIRMAN. If there be no objection, then, the gentleman may offer his amendment.

Mr. McGUIRE of Oklahoma. In line 9, page 1, I move to strike out after the word "be" the words "subject to taxation from and after the date of death of the allottee; and until said lands be," so that it will read:

That until the inherited lands of the Osage Tribe of Indians shall be partitioned or sold, the Secretary of the Interior be, and he hereby is, authorized to pay the taxes on said lands out of any money due and payable to the heirs from the segregated decedents' funds in the Treasury of the United States.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, lines 9 and 10, page 1, by striking out the words "subject to taxation from and after the date of death of the allottee, and until said lands be."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Amend, line 8, page 1, by inserting the words "until the."

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Amend, page 1, line 9, by inserting the words "of the Osage Tribe of Indians."

Mr. DAVENPORT. Before that amendment is agreed to, I move to insert after the word "of" the words "the deceased members of," so that it will read:

That until the inherited lands of the deceased members of the Osage Tribe of Indians—

And so forth.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment, in line 9, page 1, by inserting after the word "of" the words "the deceased members of."

The amendment was agreed to.

The committee amendment as amended was agreed to.

Mr. MURDOCK. Mr. Chairman, is it in order to move to recommit the bill?

The CHAIRMAN. It is not in order in Committee of the Whole, but it will be later on.

Mr. MURDOCK. Is it in order at the present time to move to strike out the enacting clause?

Mr. MANN. It is in order at any time to make that motion, but I hope the gentleman will not do it.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 2, line 3, by striking out the word "moneys" and inserting the words "in money."

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the next section.

The Clerk read as follows:

SEC. 2. That the Secretary of the Interior be, and he hereby is, authorized, where the same would be to the best interests of Osage allottees, and the same is submitted to the Osage council, for recommendation to permit the exchange of homesteads or other allotments, or any portions thereof, of Osage allottees under such rules and regulations as he may prescribe and upon such terms as he shall approve: *Provided*, That where a homestead or homesteads pass in the exchange, in whole or in part, an equivalent in value of land suitable for agricultural purposes shall be furnished, to be designated as a homestead. The new homestead shall be subject to the same restrictions as the original homestead. The Secretary shall have authority to do any and all things necessary to make these exchanges effective.

Mr. MANN. Mr. Chairman, I move to amend line 9 by striking out after the word "council" the comma and inserting after the word "recommendation" the words "and approved by it" with a comma. I suppose it is proper to refer to the Osage council by the pronoun "it"?

Mr. McGUIRE of Oklahoma. It is.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 9, by striking out the comma after the word "council" and inserting after the word "recommendation" the words "and approved by it" with a comma.

Mr. MANN. Mr. Chairman, I hope that this amendment will be agreed to, but after it is agreed to I shall move to strike out the section. There are very few Members of the House present just now, and as it is useless to discuss a proposition with only the members of the Committee on Indian Affairs present, with the expectation of overruling them by their own votes——

Mr. McGUIRE of Oklahoma. If the gentleman will allow me to interrupt him, will the gentleman be willing to exclude the provision as to homesteads and allow them to exchange surplus lands?

Mr. MANN. As far as I am personally concerned, I am willing to do that if there can be an understanding that when this goes to conference homesteads will not be reinserted.

Mr. McGUIRE of Oklahoma. Of course, I can not speak for the conferees, but the gentlemen from Kansas and Illinois seem to object to the provision in regard to homesteads. The Indians ask it, but if it is going to endanger the bill, which is badly needed and ought to pass, I should prefer to have it stricken out.

Mr. MANN. Well, of course I can speak only for myself; I can not speak for the other Members of the House. Nobody understands that better than I do.

Mr. STEPHENS of Texas. I would much rather it be stricken out than that we should lose the bill at this session.

Mr. MANN. I fully appreciate the fact that striking this section out of the bill, in my judgment, does not affect the merits of the rest of the bill at all or the working of the rest of the bill.

Mr. McGUIRE of Oklahoma. It does not, but it affects the value of the lands. If they can make the exchanges, it will enhance the value of their land.

Mr. MANN. Mr. Chairman, I do not know enough about it to object to giving the Secretary of the Interior, under the restrictions here, power to permit them to exchange surplus lands one with another. I can see that that would be advantageous, but I am opposed to permitting them to be tempted by the exchange of homestead lands.

Mr. McGUIRE of Oklahoma. I wish the gentleman would offer an amendment to that effect.

Mr. MANN. I was going to raise the point of no quorum, but for the present I will not do it.

Mr. MURDOCK. Mr. Chairman, what is the gentleman's amendment; what is the effect of it?

Mr. MANN. The amendment is simply to require the approval of the Osage council before anything is done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. SAUNDERS. Mr. Chairman, I would like to know if the word "until," in line 8, page 1, is still in the bill? There does not seem to be any sense in it.

Mr. MANN. That is right as it is. I will say to the gentleman that there has been an amendment made which makes it read "until the inherited lands of the deceased members of the Osage Tribe of Indians shall be partitioned or sold, the Secretary of the Interior be, and he is hereby, authorized," and so forth.

Mr. SAUNDERS. Is the portion subjecting it to taxes stricken out?

Mr. MANN. All of it. Mr. Chairman, I will offer a motion so as to have something pending to strike out the section and see if we can perfect it.

Mr. McGUIRE of Oklahoma. Then I would like to offer an amendment, perhaps, to the gentleman's amendment.

Mr. MANN. Let us see how it would leave it to permit the exchange of allotments other than homesteads.

Mr. McGUIRE of Oklahoma. Make it read "to permit the exchange of surplus allotments." That is the way they are designated under the law, or any portion thereof, and after the word "approve," in line 12, strike out the rest of the paragraph.

Mr. MANN. Mr. Chairman, I move, then, in line 10, to strike out the words "homesteads or other" and insert in lieu thereof the word "surplus," so that it will read, "to permit the exchange of surplus allotments."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 10, by striking out the words "homesteads or other" and inserting in lieu thereof the word "surplus."

Mr. MANN. There is no question but that the words "surplus allotments" covers it, is there?

Mr. McGUIRE of Oklahoma. It covers it absolutely under the law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The amendment was considered and agreed to.

Mr. MANN. Now, Mr. Chairman, I move to strike out the proviso beginning on line 12, page 2.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 12, amend by striking out all of the proviso down to and including the end of line 17.

Mr. STEPHENS of Texas. I have no objection to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. MANN. The word "*Providcd*" should go out and the colon in line 12 should be made a period.

Mr. FERRIS. You preserve lines 18 and 19?

Mr. MANN. Yes.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the word "approve," in line 12, insert a period in lieu of the colon.

The amendment was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GEORGE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 20842. An act to provide for a tax upon white phosphorus matches, and for other purposes; and

H. R. 15471. An act making appropriation for repair, preservation, and exhibition of the trophy flags now in store in the Naval Academy, Annapolis, Md.

OSAGE INDIANS, OKLAHOMA.

The committee resumed its session.

The Clerk read as follows:

SEC. 3. That the property of deceased and of orphan minor, insane, or other incompetent allottees of the Osage Tribe, such incompetency being determined by the laws of the State of Oklahoma, which are hereby extended for such purpose to the allottees of said tribe, shall, in probate matters, be subject to the jurisdiction of the probate courts of the State of Oklahoma, but a copy of all papers filed in the probate court shall be served on the superintendent of the Osage Agency at the time of filing, and said superintendent is authorized, whenever the interests of the allottee require, to appear in the probate court for the protection of the interests of the allottee. The superintendent of the Osage Agency or the Secretary of the Interior, whenever he deems the same necessary, may investigate the conduct of executors, administrators, and guardians or other persons having in charge the estate of any deceased allottee or of minors or persons incompetent under the laws of Oklahoma, and whenever he shall be of opinion that the estate is in any manner being dissipated or wasted or is being permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the guardian or other person in charge of the estate, the superintendent of the Osage Agency or the Secretary of the Interior or his representative shall have power, and it shall be his duty, to report said matter to the probate court and take the necessary steps to have such case fully investigated, and also to prosecute any remedy, either civil or criminal, as the exigencies of the case and the preservation and protection of the interests of the allottee or his estate may require, the costs and expenses of the civil proceedings to be a charge upon the estate of the allottee or upon the executor, administrator, guardian, or other person in charge of the estate of the allottee and his surety, as the probate court shall determine. Every bond of the executor, administrator, guardian, or other person in charge of the estate of any Osage allottee shall be subject to the provisions of this section and shall contain therein a reference hereto: *Provided*, That no guardian shall be appointed for a minor whose parents are living, unless the estate of said minor is being wasted or misused by such parents: *Provided further*, That no land shall be sold or alienated under the provisions of this section without the approval of the Secretary of the Interior.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I am afraid there might be some question, under the language of this bill, in reference to what is meant by the words "incompetent allottees of the Osage Tribe, such incompetency being determined by the laws of the State of Oklahoma."

Mr. STEPHENS of Texas. Mr. Chairman, I will state to the gentleman that I think the laws of the State of Oklahoma provide who shall be competent to transact business and who shall not, such as minors, insane persons, the feeble-minded, and so forth. That is evidently what the courts would hold.

Mr. MANN. It is not sufficient ever to say to me that a certain thing is evidently what the courts would hold. I have been a practicing lawyer too long.

Mr. STEPHENS of Texas. Mr. Chairman, I will ask the gentleman if it is not a fact that the courts take judicial notice of the statutes of the States and of the United States, and when a law states that it is subject to the laws of another State you do not have to restate that law? The courts take notice of the acts of the legislatures of the States and of the acts of Congress.

Mr. MANN. Mr. Chairman, I discovered that before I went to the law school, and it is good law. The gentleman is right. This bill in the original section 10 defines what is the meaning of the word "competent" as follows:

The word "competent," as used in this act, shall mean a person to whom a certificate has been issued authorizing alienation of all the lands comprising his allotment except his homestead.

Here is a proposition in this section to allow a definition, not of the word "competent" which we have, but of the word "incompetency," which is supposed to be directly the opposite of the word "competency," according to the laws of the State of Oklahoma. I think no one here desires to have Oklahoma given permission to go into anything in reference to competency or incompetency, except as to those classes of cases or persons that are declared incompetent by practically all of the States, such as the insane, idiots, minors, spendthrifts, perhaps, and that sort, because it is not the purpose, as I understand this section—and that is what I would like to know—to allow the probate court to take possession of all the property of all the Indians who are not competent. But it might bear that construction. Is that what the gentleman wants? Here is an incompetent Indian, who is incompetent so far as the definition of competency is concerned, incapable of alienating his property on account of incompetency. Does the gentleman propose to let the probate court step in and have control of the property of that Indian on the ground that he is incompetent?

Mr. McGUIRE of Oklahoma. Mr. Chairman, my understanding of the bill is that it designates the statutes of the State of Oklahoma to prescribe incompetency so far as this section is concerned, and the incompetency prescribed by the statute of Oklahoma prevails with respect to this paragraph, and that only the insane, the feeble-minded, and so forth, would be affected.

Mr. MANN. Let us suppose there is a spendthrift. I take it that all of the States provide for taking possession of the property of a spendthrift on the ground of incompetency. Here is an Indian who is now incompetent. Suppose somebody files a petition in the county court of Osage County alleging that this Indian is incompetent under the laws of the State of Oklahoma because he is a spendthrift. Do I understand, then, that the probate court is going to take possession of his property?

Mr. McGUIRE of Oklahoma. I think it ought to.

Mr. MANN. Is it not now under the control of the Secretary of the Interior?

Mr. McGUIRE of Oklahoma. Not as to his qualities of spending. The property is under the control of the Secretary of the Interior so far as giving any money is concerned outside of his annuities. He can do as he pleases about it and spend it as fast as he wants to. This does not give the probate court any jurisdiction that would permit the Indian to secure his money out of the Treasury or sell his land without the sanction of the Secretary.

Mr. MANN. Of course this does not permit the probate court in any event to sell the property of the Indian.

Mr. McGUIRE of Oklahoma. Not without the sanction of the Secretary of the Interior.

Mr. MANN. It does not permit the probate court to do it unless it is authorized by the Secretary of the Interior.

Mr. McGUIRE of Oklahoma. That is correct.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BOOHER. Mr. Chairman, I would like to know of somebody what is meant by the language beginning in line 21, page 3:

* * * and the preservation and protection of the interests of the allottee or his estate may require, the costs and expenses of the civil proceedings to be a charge upon the estate of the allottee or upon the executor, administrator, guardian, or other person in charge of the estate of the allottee.

And so forth.

That provides that where the property has been misappropriated or squandered by the guardian or administrator, the ward, the Indian, ought to pay the cost of recovering it back. Why not let the costs follow as in other cases? I do not think it ought to be left in the discretion of the court to say whether he shall pay it or not.

Mr. MANN. I call the gentleman's attention to the language:

The cost and expenses of the civil proceedings to be a charge upon the estate of the allottee or upon the executor, administrator, guardian, or other person in charge of the estate of the allottee, and his surety, as the probate court shall determine.

Mr. BOOHER. I understand that language is there; but why should there be a provision in there at all that the estate of the ward should in any case pay the expenses?

Mr. MANN. But supposing a proceeding is commenced at the suggestion of the Secretary of the Interior for the purpose of bringing a suit against the guardian or the administrator, and that fails, and the administrator wins the suit.

Mr. BOOHER. Yes.

Mr. MANN. Who is to pay the expenses?

Mr. BOOHER. It certainly ought not to be taken out of the estate of the ward where the guardian has squandered the estate. Let the party who brings the suit pay the cost.

Mr. MANN. But the Government is doing that as the guardian of the ward, and of course will take that out of the funds of the ward. I take it, those suits would not be idly brought by the Government. The gentleman would not propose that if the Government endeavors to prosecute the administrator in behalf of its ward, the expense of that should be put upon the State of Oklahoma or should be paid out of the National Treasury on the other hand?

Mr. BOOHER. No; if this stands as it is, the probate court has the discretion of charging the costs against the estate of the ward, even though the ward wins the suit.

Mr. MANN. Courts usually have the power of adjudging costs, but they generally assess them against the defeated party. I think that is all this means. Sometimes the costs are divided.

Mr. BOOHER. Mr. Chairman, I move to amend by inserting, after the word "require," in line 22, page 3, the words "that no part of."

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 3, line 22, after the word "require," insert the words "that no part of."

Mr. STEPHENS of Texas. Let me call the gentleman's attention to line 1, page 4, where it says, "As the probate court shall determine." That language, I think, will make the amendment of the gentleman unnecessary.

Mr. BOOHER. Well, I will move to strike it out when I get to it.

Mr. TURNBULL. Let me call the gentleman's attention to the fact that the whole matter is under the jurisdiction of the court, and what is the use of talking about costs if it is going to the courts of Oklahoma in this manner to be settled? Is not the question of cost settled there?

Mr. McGUIRE of Oklahoma. I think so.

Mr. TURNBULL. It ought not to be here in this, and I do not think you can do it by this proceeding.

Mr. McGUIRE of Oklahoma. I will say the purpose of the paragraph is to protect the property of the Indian where suit has been brought as suggested by the gentleman from Illinois. I desire to say the committee considered this carefully.

Mr. MANN. I will suggest to the gentleman I do not quite see how the Government should proceed. Suppose the estate of a ward has been destroyed and so you bring suit against the administrator and cause the superintendent of the agency to investigate the matter and he finds suit ought to be brought, it is quite clear you can not expect the superintendent of the agency to pay the costs. It is quite clear the Treasury of the United States can not be compelled to pay the costs, because there is no law authorizing it. How will the Government proceed?

Mr. BOOHER. Let me say to the gentleman from Illinois this: If he brings suit in the interest of the ward and fails then the general law would charge the costs against the losing party, but under this if he brought suit and won, in the discretion of the court, the costs might be taxed against the ward.

Mr. MANN. I think the court usually ought to have that discretion. I imagine the cost should be taxed in any event against the estate where the estate has succeeded in its suit against the administrator.

Mr. BOOHER. Why is it necessary to have any provision in the bill at all about taxing costs?

Mr. MANN. Without it you could not commence suit.

Mr. BOOHER. Yes; you can.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes additional.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. SAUNDERS. Mr. Chairman, with the permission of the gentleman from Missouri I desire to make a suggestion. This is not the case of ordinary litigants. In those cases the losing litigant would be taxed with the costs. In the case before us it is absolutely true that a functionary of the Government will take steps on behalf of a ward on the suggestion that some fiduciary has wasted the estate of the ward. If after the institution, and in the progress of the proceeding it is found that the fiduciary has not wasted the estate it would not be proper to tax any costs against the fiduciary. The functionary of the Government who has acted in good faith, and sought to protect the estate of the ward by the institution of appropriate proceedings certainly should not be liable in costs. The fiduciary has made out a good case. He shows that he has not been at fault and has not wasted the estate of the ward, thereby relieving himself from any personal pecuniary responsibility. In such a case the losing party can not be taxed, because the losing party happens to be the representative of the Government. Hence there is no one left to be taxed with costs in a personal way. The estate of the ward should carry the burden because the proceeding was in his interest. Otherwise who would pay these costs? The Government is certainly not compelled to pay them, and there is no general fund out of which these costs may be paid. In the case under consideration since it would be ascertained that there had been no waste on the part of the guardian, or the fiduciary, the costs properly should come out of the estate of the ward.

Mr. BOOHER. If the representative of the Government brings the suit in the interest of the ward, then the ward has got two guardians working for him.

Mr. SAUNDERS. That may be.

Mr. BOOHER. If the representative of the Government loses his suit, then the costs will be taxed against the unsuccessful party, the ward, and paid out of his estate in the hands of his guardian by order of the court.

Mr. SAUNDERS. Would you charge them against the functionary of the Government?

Mr. BOOHER. If he is acting in his representative capacity. If we did not put in this provision the general-cost law of Oklahoma will apply, but with this provision in here, even though the representative of the Government should win in the suit, then, in the discretion of the court, costs might be taxed against the estate of the ward. If we strike that out, then costs will be taxed under the law of Oklahoma, and the losing party will pay the costs.

Mr. MANN. This does not change the existing law in reference to taxing costs at all, and when the costs are taxed he has got to pay it.

Mr. BOOHER. The law of Oklahoma provides costs shall be taxed and collected.

Mr. MANN. Would the gentleman have the property of the ward sold?

Mr. BOOHER. No.

Mr. MANN. The law of the United States provides it can not be sold, and how will you collect the taxes?

Mr. BOOHER. The guardian has already the money which is to the credit of the ward, and if the court finds there has been no misappropriation of the fund and judgment is rendered against the Government representative the guardian having the funds of the ward in his hands will be ordered by the court to pay the costs out of his estate. There is no trouble to get the cost if the court renders the proper judgment.

Mr. SAUNDERS. I suggest that in this particular case there might be some difficulty unless the language of the bill is retained. A representative of the Federal Government is directed to take certain steps under certain contingencies. If it is ascertained that the guardian has not wasted any property of his ward, I do not know whether under the laws of Oklahoma there would be any authority in the court to provide that the costs should be paid out of the estate of the ward. Yet it is very clear that in such a case the estate of the ward should pay them. The proceeding was instituted in good faith in his interest.

Mr. FERRIS. And I think it is fair to say that he should have the costs assessed against him if he should win.

Mr. SAUNDERS. I repeat that it is perfectly in such a state of facts the estate of the ward ought to pay the taxed costs.

Mr. BOOHER. Well, Mr. Chairman, I insist upon the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, line 22, after the word "require," insert the words "that no part of."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. FERRIS. Mr. Chairman, I move to strike out the last word, for the purpose of asking unanimous consent that the Clerk at the desk be instructed to strike out the word "probate" where it occurs in this section, because there is no probate court in Oklahoma. The county court has jurisdiction.

Mr. MANN. I doubt whether the gentleman wants to strike out "probate" wherever it occurs.

Mr. FERRIS. Wherever it refers to the probate court.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent that where the words "probate court" appear they may be so changed in this bill as to read "county court." Is there objection?

There was no objection.

The Clerk read as follows:

SEC. 4. That nothing herein shall be construed as in any way changing the rights of the Osage Tribe in oil, gas, and other minerals as fixed in the Osage act of June 28, 1906, or in any manner be construed to change or amend the provisions of said act in regard to oil, gas, coal, or other minerals.

Mr. MANN. Mr. Chairman, I move to amend by inserting, in line 13, before the word "and" the word "coal," so it will read:

Oil, gas, coal, and other minerals.

The CHAIRMAN. Does the gentleman wish to be heard on his amendment?

Mr. MANN. The amendment has not yet been reported.

The CHAIRMAN. The Clerk will report the amendment.

Mr. STEPHENS of Texas. I accept the amendment on behalf of the committee.

The CHAIRMAN. The Clerk has not reported the amendment yet. The Clerk will read.

The Clerk read as follows:

Page 4, before the word "and," in line 13, insert the word "coal."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to amend the section by striking out, in line 23, page 4, the words "register of deeds for Osage County" and insert in lieu thereof the words "Osage Agency," so as to get the vote of the House.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 23, strike out "register of deeds for" and insert "Osage Agency."

Mr. MANN. Mr. Chairman, I offer the amendment because I am perfectly willing to strike out this section. If the section is stricken out of the bill when passing the House it will go to conference, and I was afraid that the attention of the conferees might not be sufficiently called to it without having a vote of the House as to the ambiguity. It ought to be "register of deeds for Osage County."

Mr. FERRIS. I think the section ought to be left out. The more I think of it the more I recognize the wisdom of the gentleman from Illinois in regard to it. They do not allow the records to be kept free of inspection by anybody who desires to inspect them.

Mr. MANN. The Secretary of the Interior has repeatedly time and time again insisted upon the change being made in this bill.

Mr. FERRIS. The Secretary has?

Mr. MANN. Yes.

Mr. FERRIS. I have no objection to it.

Mr. STEPHENS of Texas. I have no objection to the amendment.

Mr. BURKE of South Dakota. I understand the gentleman from Illinois to say he is going to strike out the section. It ought not to be in the law.

Mr. MANN. What I am afraid of is that it will be in the law when it becomes the law, with this objectionable provision in it, and when a man gets his alienation removed under the existing section we only have the benefit of one individual.

Mr. BURKE of South Dakota. I will add as objection to lines 21, 22, 23, and 24, as to the matter of public records being kept, it ought not to be in the law at all. No provision is made as to who is going to keep the record, who is going to pay the expense of having such a record kept, and so far as the Indians whose restrictions may have been removed, that can be ascertained from the agency by simply applying there.

Mr. MANN. It is perfectly apparent under the Senate provision if restrictions were removed from any Indian the order would never be filed in the office of the register of deeds until it was to be used by somebody who had made the purchase.

Mr. BURKE of South Dakota. Undoubtedly.

Mr. MANN. And nobody could tell in advance how the public record would be kept at the Osage Agency.

Mr. BURKE of South Dakota. My objection to the section is that if an individual Indian has had land that is now restricted and he does not elect to have those restrictions removed, he ought not to have forced upon him a provision providing that the restrictions can arbitrarily be removed merely for the purpose of taxing the land.

Mr. MANN. I am quite willing to strike out the section.

Mr. STEPHENS of Texas. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. FERRIS. Now the committee amendment, Mr. Chairman.

The CHAIRMAN. The question now is on the committee amendment, which is to strike out the section.

The question was taken, and the committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 6. That the Secretary of the Interior, in his discretion, hereby is authorized, under rules and regulations to be prescribed by him and upon application therefor, to turn over to Osage allottees, including the blind, crippled, aged, or helpless, all or part of the funds in the Treasury of the United States to their individual credit: *Provided*, That he shall be first satisfied of the competency of the allottee or that the release of said individual trust funds would be to the manifest best interests and welfare of the allottee: *Provided further*, That no trust funds of a minor or a person so afflicted as above mentioned, or an allottee non compos mentis shall be released and paid over except upon the appointment of a guardian and an order of the proper court and after the filing and approval by the court of a sufficient bond conditioned to faithfully administer the funds released and the avails thereof.

With a committee amendment, as follows:

Amend, line 1, page 5, by striking out the figure "6" and inserting the figure "5."

Mr. MANN. The Clerk does not need to read that. It is the duty of the engrossing clerk to change that.

The Clerk read the next committee amendment, as follows:

Amend, lines 3 and 4, by striking out the words "turn over" and inserting the word "pay."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to insert, in line 4, after the word "blind," the word "insane."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

Amend, line 4, by inserting after the word "blind" the word "insane" and a comma.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I notice this provision says "aged." What does the gentleman from Illinois understand from the word "aged," in line 4? That is a peculiar term to me, and it is doubtful whether it means according to Dr. Osler's theory—60 years of age—or whether it means 85 years or 110 years. I do not know.

Mr. MANN. Of course, in this case I suppose they mean somebody so old that he has to have a guardian. At any rate they can not turn it over to him, but must turn it over to a guardian. I do not think it belongs to this bill.

Mr. FOSTER. I should think it does not, because a man might be 85 years old and still be competent to spend his own money.

Mr. MANN. Move that the language be stricken out.

Mr. FOSTER. Mr. Chairman, I move to amend by striking out of line 4 the word "aged."

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Illinois [Mr. FOSTER].

The Clerk read as follows:

Amend by striking out of line 4 the word "aged."

Mr. MILLER. Mr. Chairman, I do not want to speak in opposition to it unless the gentleman desires me to before he proceeds, but I do want to speak on the amendment. That word is properly in the bill. The Indians have some peculiarities of their own, and in that respect they are different from the rest of us. One of them is that old people who become helpless and unable, by reason of senile disability or something of that kind, to handle themselves and acquire a livelihood are not treated by the other members of the tribe with the care and consideration which they ought to have, and they fall properly into that class described by the word "helpless," of which the blind, insane, and crippled are members. The aged among the Indians can properly be thus classified. I think the language of the bill is entirely appropriate and that class should be included.

Mr. MANN. If they are included in the word "helpless" it would be unnecessary.

Mr. MILLER. The blind are helpless and the cripples are helpless, and if we enumerate the different classes who are helpless we ought to enumerate as many as possible.

Mr. FOSTER. It occurs to me that one of the reasons why an aged man is not entitled to manage his own property is because he is incompetent from infirmities of mind or body due to age and not on account of age alone. Now, as to being crippled, an Indian might be crippled and yet perfectly competent to manage his own affairs. To my mind these terms here indicate very clearly that this bill has been drawn by somebody outside of Congress, possibly by some shrewd attorneys who are hanging around Washington pretending to help the Indians at so much per head, because I take it that Members of Congress and members of the Committee on Indian Affairs of the House, who are believed to be competent men—I would not say otherwise—would not have used this particular language. A bill coming over here from the other body has been passed without the careful scrutiny which this committee usually gives to legislation of this kind.

Now, we have seen, and it has been pointed out by the gentleman from Illinois [Mr. MANN], that there are many imperfections in this bill, and we see here now such imperfections in enumerating the different kinds of afflictions that are here enumerated, among them the blind and the crippled and the aged and the helpless, on the theory that they are not competent to manage their affairs. And yet I do not believe that there is any member of this Committee on Indian Affairs that can give a good reason why this language is in the bill as it is here now.

Now, we talk about a crippled person. As I said a moment ago, are you going to say that because a man has one arm cut off he is incompetent to manage his affairs, or if he has one foot cut off he is unable to manage his affairs, and that therefore you must take him into court and have a guardian appointed for him so as to manage his estate?

Mr. MILLER. Mr. Chairman——

Mr. FOSTER. Now, Mr. Chairman——

Mr. MILLER. I have been recognized.

Mr. FOSTER. No; I do not understand the gentleman has been recognized. I think I am entitled to the floor.

Mr. CARTER. The gentleman thinks that because a man is crippled and aged the bill declares him incompetent. It does not. It merely provides that in that case his funds must be turned over to the Secretary of the Interior. I think the gentleman will agree that that should be done.

Mr. MILLER. This is providing a way by which the funds of one of these classes may be taken care of for his use.

Mr. FOSTER. Mr. Chairman, who has the floor? I yielded it to the gentleman from Minnesota a moment ago.

Mr. MILLER. I think I have the floor.

The CHAIRMAN. To whom does the gentleman from Minnesota yield?

Mr. MILLER. I do not yield to anyone now. I want to make a statement first.

Mr. FOSTER. I would like to know how the gentleman from Minnesota took me off the floor.

The CHAIRMAN. The gentleman from Illinois has never been on the floor except by unanimous consent.

Mr. FOSTER. I beg the Chair's pardon. I offered an amendment.

The CHAIRMAN. The gentleman did not rise to speak to it.

Mr. FOSTER. I thought I did, and I permitted the gentleman from Minnesota to make an observation. But it is all right.

The CHAIRMAN. The Chair did not so understand. The Chair recognizes the gentleman from Minnesota.

Mr. MILLER. Mr. Chairman, I do not think there will be any difficulty in letting everybody talk all they care to on this paragraph. What I want to say is what I undertook to say at the outset, and then I will let the gentleman from Illinois [Mr. FOSTER] have all the time he wants.

I think there is a misunderstanding as to the amendment to this section. It does not say who are incompetent and who are not, but it does say that incompetents who have not had their restrictions removed, and therefore have not received their share of the property, and who belong to these classes, should have their funds taken care of by the Secretary of the Interior and used for their welfare as he sees fit.

Mr. BOOHER. Mr. Chairman, will the gentleman yield?

Mr. MILLER. I said I would yield first to the gentleman from Illinois [Mr. FOSTER].

Mr. FOSTER. I will take occasion to say what I have to say later.

Mr. BOOHER. Further down in section 6 of the bill there is a proviso that persons so afflicted must have a guardian appointed before they can get their money. The words "so afflicted" would cover the crippled, blind, and aged. Such a person must have a guardian appointed before the Government can turn over to him his share of the money for his support.

Mr. MILLER. That is entirely true, and the gentleman from Missouri [Mr. BOOHER] will clearly see why it is so; that is, why Indians whose restrictions have not been removed, because they are not considered competent, must have a guardian appointed.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. MILLER] has expired.

Mr. BOOHER. I ask that the gentleman's time be extended two minutes, as I want to ask him a question.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BOOHER. Why would a man who has lost an arm, or a finger, or a toe, or crippled in any manner have a guardian appointed in order to receive from the Government the money that the Government owes him?

Mr. MILLER. He does not need to have a guardian because of that affliction, but he needs to have a guardian by reason of being incompetent.

Mr. BOOHER. The bill says "crippled and aged," and then says "so afflicted."

Mr. MILLER. But they would have to be otherwise incompetent.

Mr. BOOHER. The bill does not say so.

Mr. KINDRED. I wish to ask the gentleman from Minnesota a question. What does it cost to appoint a guardian in the State of Oklahoma, in a case that would require his appointment?

Mr. MILLER. I am unable to answer the gentleman.

Mr. DAVENPORT. If the lawyer does not charge too much, the cost amounts to about $10, provided the guardian can give a personal bond. If he gives a surety bond, that costs at the rate of about $5 per annum per thousand, which is paid out of the estate.

Mr. KINDRED. But, after all, a man is at the mercy of his lawyer.

Mr. DAVENPORT. No; because there are a great many people who are skilled in the preparing of probate papers.

Mr. KINDRED. I am not urging the point, but what would be the usual fee of an attorney?

Mr. DAVENPORT. It would probably be $10 for preparing the papers and securing the appointment.

Mr. KINDRED. Then the fees of the attorney and the court costs and clerk's fees, and so forth, would not exceed $50?

Mr. DAVENPORT. Oh, no. The court costs were included in the $10.

Mr. KINDRED. The whole thing would not exceed $25.

Mr. DAVENPORT. No, sir; it would not.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr MILLER] has expired.

Mr. FOSTER. I desire to call the attention of the committee to the peculiar language in this bill. It is provided in section 5 that the Secretary of the Interior, in his discretion, is authorized to pay to the Osage allottees, including the blind, crippled, aged, insane, and helpless, all or part of the funds in the Treasury of the United States to their individual credit, and that he shall first be satisfied of the competency of the allottee.

Mr. STEPHENS of Texas. The gentleman is wrong.

Mr. FOSTER. It is provided that he shall first be satisfied of the competency of the allottee, or that the release of said individual trust funds would be to the manifest best interest and welfare of the allottee; that no trust funds of a minor or person so afflicted as above mentioned, or non compos mentis, shall be released or paid over except on the appointment of a guardian.

Now, if an Indian is crippled, I suppose then it is a question whether he is entitled to manage his own funds, or whether they shall be paid to his guardian. What is the intention?

Mr. STEPHENS of Texas. This only applies to aged, crippled, and insane Indians who are not permitted to use their own funds, which are in the hands of the Government, and who have nothing to live upon unless they derive from the Government, through Congress, the right to withdraw their funds for their use, and it says what this applies to. It does not authorize them to use those funds except through the direction of the Secretary of the Interior.

Mr. FOSTER. It is not necessary, then, for a guardian to be appointed for a man simply because he is crippled?

Mr. STEPHENS of Texas. If the Secretary of the Interior believes that the funds withdrawn for his support and maintenance would not be so used, then he has the right to require that a guardian be appointed.

Mr. FOSTER. And if an Indian is old, then they can not give him the money?

Mr. STEPHENS of Texas. If he is old, and needs it, and has the money in the Treasury to his credit, then this law permits him to withdraw it, so that he can use it to live upon.

Mr. SAUNDERS. But in the case of a crippled Indian, even though they were satisfied it was to his best interest, they still would have to appoint a guardian for him.

Mr. FOSTER. That is my understanding of it.

Mr. SAUNDERS. That is so. The language of the bill is such that it is hard to understand.

Mr. MILLER. My attention has been called to a part of the last proviso with which I was not familiar. I am frank to say to the gentleman that he is correct. The bill can be corrected and made entirely proper, so as to remove the objection of the gentleman, by striking out in the second proviso after the word "minor," in line 10, the words "or a person so afflicted," as above mentioned, so that it will read:

That no trust funds of a minor or an allottee non compos mentis—

And so on. To other parties the Secretary of the Interior may pay the money direct.

Mr. FOSTER. I think that would improve it.

Mr. MANN. If the gentleman will permit me, I think the amendment suggested by the gentleman from Minnesota would not fully meet the case, because some of these people who were blind, crippled, aged, or helpless might be incompetent.

Mr. FOSTER. Certainly.

Mr. MANN. The gentleman's amendment would only declare incompetent those who were minors or insane. I have an amendment prepared which I think will meet the situation, and I will submit it.

Mr. FOSTER. I am willing to withdraw my amendment and let the gentleman submit his.

Mr. MANN. We have already inserted the word "insane" in the class of incompetents. My amendment is to strike out the words "so afflicted as" in the proviso, in line 11, and insert after the word "mentioned" the words "who is incompetent,' and then strike out the words "or an allottee non compos mentis," so that it would read:

Provided, That no trust funds of a minor or a person who is incompetent, as above mentioned, shall be released and paid over except upon the appointment of a guardian.

The gentleman will note that the provision is that before the Secretary can pay over the money he must find that the allottee is competent or he must find that he needs the money expended for his benefit. My amendment would leave it to the Secretary to pay the money, if he is competent, or if he is incompetent and still needs the money, it must be paid to the guardian.

Mr. McKENZIE. If the gentleman will permit me, I wish to suggest that along the line of his proposed amendment if, after the word "mentioned," in line 11, the words "adjudged to be incompetent" were inserted, it would cover the whole ground.

Mr. MANN. I will suggest to my colleague that it is the Secretary of the Interior who ascertains whether the person is incompetent, and in addition to that there must be an adjudication of incompetency in order to obtain a guardian.

Mr. McKENZIE. In this case the Secretary renders the judgment. Some one has to judge the party competent or incompetent.

Mr. FERRIS. Let me suggest that these people are incompetent, irrespective of any holding or judgment, because of the fact that they are of Indian blood and Indian allottees. This is a relief measure. Now, I want to inquire of the gentleman from Illinois what his amendment is. It is evident that there is some need of an amendment to this proviso.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, the bill already provides that the Secretary of the Interior, before he pays the money, must be satisfied of the competency of the allottee and that he needs the money. Now, my proposition is to put into juxtaposition the word "competency" and the word "incompetent" in the bill, and make it read:

Provided, That no trust fund of a minor or person above mentioned who is incompetent shall be released and paid over, except upon the appointment of a guardian.

Mr. FERRIS. Mr. Chairman, I do not know that I can make clear what is in my mind, but it seems to me that the amendment should be so formulated that it would leave it in the discretion of the Secretary of the Interior as to whether or not he should have any guardian. The expense of getting a guardian appointed and the administration upon the estate is an onerous one and an expensive one. I am not sure that in each and every case the Secretary ought to be compelled to have a guardian. It will make attorneys' fees and increase expenses. I am not sure that they ought to bear them.

Mr. MANN. The gentleman from Oklahoma would not say that we ought to turn over money to an insane man?

Mr. FERRIS. No.

Mr. MANN. And he would not say that we ought to turn money over to a minor, although he may be in fact competent?

Mr. FERRIS. That is true.

Mr. MANN. And the gentleman would not say that we ought to turn the money over to anybody thoroughly incompetent, or shiftless, without the appointment of a guardian to control it. Now, under this language the Secretary is authorized to determine who is competent and who would be incompetent, and if these people are competent, although they may be blind and crippled and aged and helpless physically, they could have the money paid over to them, but if incompetent, as distinguished from competent, they would be mentally incompetent; they must have a guardian.

Mr. FERRIS. I am in full accord with what the gentleman says. But it seems to me it ought to go further. It seems to me that between the annuity and the grass money payment in the intervals when no money is coming to them this could be dispensed to the aged, crippled, and demented Indians for little necessaries without going through the cumbersome routine of applying to the probate court for a guardian.

Mr. MANN. This does not require him to do that, if he is satisfied as to the competency of the allottee.

Mr. FERRIS. But suppose he is incompetent?

Mr. MANN. This does not mean incompetent in reference to removing restrictions from alienation.

Mr. FERRIS. It might mean that.

Mr. MANN. No. This means the same thing as it does in section 3, where it clearly means competent to handle money and take care of himself.

Mr. FERRIS. I think the gentleman's amendment is good, but I think it would work better if the Secretary of the Interior were given discretion in all cases as to whether a guardian was needed or not.

Mr. MANN. I think he is given that discretion absolutely.

Mr. FERRIS. I am not sure about that.

Mr. MANN. He has the discretion as to whether a guardian shall be appointed if he has the discretion as to whether he is needed or not.

Mr. FOSTER. Mr. Chairman, I made the motion to strike out the word "aged" because I thought some of these enumerated restrictions were undefinable. But so that my colleague

may offer the amendment he has, which I believe will cure the whole matter, I will ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Without objection, the amendment of the gentleman will be withdrawn.

There was no objection.

Mr. MANN. Now, Mr. Chairman, I move to amend lines 10 and 11, page 5, by striking out the words "so afflicted as" and inserting after the word "mentioned," in line 11, the words "who is incompetent." Also by striking out the words "or an allottee non compos mentis."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In lines 10 and 11, page 5, strike out the words "so afflicted as," and insert after the word "mentioned," in line 11, the words "who is incompetent," and striking out the words "or an allottee non compos mentis."

Mr. STEPHENS of Texas. Mr. Chairman, I have no objection to that amendment.

Mr. GOOD. Mr. Chairman, I want to call the attention of the gentleman from Illinois to section 9, where the word "competent" is defined. I will ask him if it would not be better if he added to his amendment the words "competent to handle the same," because his amendment would restrict the payment to those who had a certificate of alienation.

Mr. MANN. I will say that I think the word "competent," as defined in section 10, does not relate in any way to the word "incompetency" in section 3 of the bill. I discussed that a while ago in the House.

In section 3 of the bill incompetency is left to be determined by the laws of the State of Oklahoma, but the word "competent" is defined in the bill, and only that one word. It means the removal of the restriction of alienation. The word "incompetency," as used in section 3, relates to mental capacity.

Mr. GOOD. Mr. Chairman, I think the gentleman is right, but some department official may take a different view of that.

Mr. MANN. I was afraid of that, and I suggested that possibly we ought to change section 3, but that was not done. I think after the debate there would not be any trouble about it.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. COOPER. Mr. Chairman, I move to strike out the last word. I would like to call the attention of the gentlemen of the Indian Committee to the language of that section. Line 4 of section 5 provides that the money shall be paid "to the Osage allottees."

Mr. FERRIS. That is limited by two provisos.

Mr. COOPER. Yes; but the language I have just read is mandatory and provides that the money shall be paid to allottees. The second proviso says that it shall not be paid over except "upon the appointment" of a guardian; but it does not say it shall be paid to the guardian. Of course, it perhaps means that, but it is not a good use of language. The language first used is an express provision that it shall be paid to the allottees, and this says that it shall not be paid over except upon the appointment of a guardian and an order of the court, after the filing and approval by the court. I suggest that, to make that clear and specific, as it ought to be, we should strike out all after the word "over," in line 12, page 5, down to and including the word "court," in line 13, and insert the words "except upon an order of the proper court to a duly appointed guardian of such person." That would make it clear; and then I would amend further by inserting after the word "filing," in line 14, page 5, the words "by such guardian," so that that proviso would read:

* * * shall not be released and paid over except upon an order of the proper court to a duly appointed guardian of such person and after the filing by such guardian and approval by the court of a sufficient bond, etc.

Mr. MANN. Will the gentleman yield for a question?

Mr. COOPER. Mr. Chairman, I move to amend in that way.

Mr. MANN. Before the gentleman offers his amendment, will he permit me to suggest that under the amendment which he proposes it would require an order of a proper court before any money could be paid over?

Mr. COOPER. To the guardian.

Mr. MANN. But there is no authority to which the order can be directed. The Secretary of the Interior, who has the funds, is not subject to the order of the court, and in this case this section leaves it within the discretion of the Secretary of the Interior to pay it over to a guardian after the court has appointed the guardian; but the court can not order the Secretary of the Interior to pay it over, and I do not apprehend that the gentleman will want to require the Secretary to pay it over.

Mr. COOPER. No.

Mr. MANN. As the section now stands the court must first appoint a guardian, who must give bond, which assumes that the person is incompetent, and then the Secretary of the Interior has the discretion to pay it over or not pay it over, but is not required to pay it over.

Mr. COOPER. I think the gentleman misapprehends the force of what I was saying. The language is mandatory, in line 4, that he shall pay it over to the Osage allottees.

Mr. MANN. The gentleman will notice the language:

That the Secretary of the Interior, in his discretion, hereby is authorized, under rules and regulations to be prescribed by him and upon application therefor, to pay to Osage allottees, etc.

Mr. COOPER. Just one moment. It provides that the Secretary of the Interior is, in his discretion, authorized, upon such terms and regulations as may be prescribed by him, and so forth, to pay "to the Osage allottees." He is authorized to pay to the allottees and to nobody else. The second proviso is that no trust funds, and so forth, shall be released and paid over, except upon the appointment of a guardian and an order of the proper court, after the filing and approval by the court.

Mr. MANN. I think the language is not very good.

Mr. COOPER. I was suggesting that the language is not at all accurate.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. COOPER. Certainly.

Mr. BURKE of South Dakota. I call the gentleman's attention to the part of the bill in line 4 which he is discussing, that the Secretary of the Interior in his discretion is authorized, upon application, to pay to any Osage allottees the money in the Treasury, provided that he shall first be satisfied of the competency of the allottee, or that the release of said individual trust funds would be for the manifest best interest and welfare of the allottee. It then provides that he may pay to a class, which is described—the blind, the insane, the crippled, the aged, or the helpless—and the last proviso is to the effect that if that class or any of them be incompetent, the money shall be paid to a guardian. I think the gentleman was laboring under a misapprehension as to what this section does. The section authorizes the Secretary, if he deems the allottee to be competent, to pay him the money. There is no guardian about it.

Mr. COOPER. My objection was that the proviso is that it shall not be paid over except "upon the appointment of a guardian," and so forth.

Mr. BURKE of South Dakota. That is to this helpless class.

Mr. COOPER. But it should be, "Shall not be paid over except to a duly appointed guardian," and so forth.

Mr. MANN. I think the gentleman is right about that.

Mr. COOPER. Of course I am.

Mr. BURKE of South Dakota. The court could not order the Secretary of the Interior to pay money to anybody.

Mr. COOPER. No; but the point I make is this——

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. AKIN of New York. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from New York moves to strike out the last two words.

Mr. AKIN of New York. Mr. Chairman, the gentleman from Illinois [Mr. FOSTER] made some mention here in regard to a firm of shrewd lawyers who were interested in this bill. I propose to read here to show something about these people and how they got this bill up:

Senate bill No. 2 was drawn by the firm of Kappler & Merillat, attorneys for the Osage Nation. Under the terms of their contract with the nation they agreed to protect and conserve the rights of the Osage Nation of Indians in their tribal rolls, lands, and funds. They have appeared before the Senate Indian Committees in advocacy of this bill, notwithstanding the fact that it seeks to render taxable the homesteads immediately upon the death of the allottee, and notwithstanding the further fact it seeks to place the entire full-blood element within the control of the local probate court.

Attached is a statement of the facts shown by the records in connection with the employment of this firm by the Osage Nation:

As an illustration of the reckless and indiscriminate manner in which the department gives its approval to contracts secured by certain attorneys with Indian officials, the separate contracts approved by the department with the firm of Kappler & Merillat, consisting of Charles J. Kappler and Charles Merillat, with the Osage Tribe of Indians, may be cited. This firm of attorneys maintain offices at the city of Washington, and were until within the last four years, when they secured their first contracts with Indian tribes, a comparatively obscure and unknown firm of attorneys. Up until March 4, 1906, Charles J. Kappler had never attempted to practice law, but had for several years theretofore held the position of clerk to the Senate Committee on Indian Affairs, which position he held during the period that ex-Senator Stewart, of Nevada, was chairman of that committee. Up until about the same time Charles H. Merillat was a reporter for the Associated Press, and had never previously had any experience in the practice of the law. On April 11, 1908, these two gentlemen, having

theretofore associated themselves together in the practice of law in the city of Washington, D. C., secured a contract from the principal chief of the Osage Nation——

Mr. MILLER. Mr. Chairman, the communication which the gentleman is reading is of the utmost interest to many of us—I know it is to myself—and I can not hear it. I wish the gentleman would read it a little louder.

Mr. AKIN of New York. I am trying to get it all in. I do not care much whether the gentleman hears it or not [laughter]—

to represent said Osage Nation before the executive departments and the Congress of the United States at Washington, the courts of the United States, and elsewhere, if necessary, as attorneys for said nation for the sole purpose of protecting and conserving the rights of said Osage Nation of Indians in their tribal rolls, lands, and funds. * * *

The compensation provided by said contract was $5,000 per annum and expenses. Under this contract this firm of attorneys have devoted not to exceed 60 days per annum to such business of the Osage Tribe of Indians as they deemed within the terms of their contract. At the same time they were operating under this national contract which was approved by Secretary Garfield on May 6, 1908 (said contract and others hereafter referred to appearing in H. Rept. No. 2273, 61st Cong., 2d sess., vol. 2, pp. 2299 to 1303, inclusive), they accepted employment from individual members of the tribe, making a separate charge against the individuals for the services rendered them in Washington before the department in all matters pertaining to their individual allotments. When an Indian who had theretofore been deemed an incompetent applied to the Secretary for a certificate of competency, this firm of attorneys secured, in some instances by solicitation, employment to represent the Indian before the department. When the certificate was issued, this firm of attorneys wired the information to certain individuals who were engaged in the business of purchasing Indian lands, apprising those persons of the fact that the certificate of competency had been issued and that the Indian could then make a valid conveyance of his land. For this information they received from $50 to $500 per case.

On April 15, 1908, this same firm of attorneys entered into another contract with the Osage Indians, by which they agreed to prosecute for the Indians against the Government a claim commonly known as the "Osage civilization fund." By the terms of this contract the Osage Nation was to defray the expenses of any litigation and to pay the firm of Kappler & Merillat 10 per cent of the amount recovered, the amount claimed being in excess of $600,000. On May 6, 1908, Secretary Garfield approved this contract in a modified form.

It appears further from the same record that on September 6, 1906, this firm of attorneys entered into another contract with the Osage Indians, by which they agreed to represent the Indians in a claim being asserted against the Osage Indians for alleged services rendered the tribe by one Vann and Adair. By the terms of this contract the Osage Nation was to defray all expenses and were to pay the attorneys, Kappler & Merillat, $5,000 for services rendered and to be rendered. The record does not disclose the approval of this contract by the Secretary, but it is understood that this contract was subsequently approved and that the money has been paid.

Other contracts of like nature have been entered with the same firm of attorneys by the Osage Indians within the last two years and subsequent to the investigation set out in House Report No. 2273, Sixty-first Congress, third session. It is not known how many additional contracts have been approved by the department.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILLER. Mr. Chairman, I move that the gentleman's time be extended one minute in order that I may ask a question. I thought the gentleman had finished. I ask unanimous consent that the time of the gentleman be extended until he has opportunity to read what he has, say, for five minutes.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent that the time of the gentleman may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. AKIN of New York. Of course, gentlemen, you can not work any Fowler arrangement or horse me a bit. I am going to read the paper, and I do not know whether I will answer any questions when I get through:

It will be observed that from a fair construction of the contracts providing for the annual employment of this firm they were required to do and perform all the services specially provided for in their separate special contracts. It thus appears that, by the action of the department, the attorneys holding contracts which had been approved by the department and which are therefore binding in law against the Indians have been and are now permitted by fine distinction as to the services to be rendered under their annual contract to mulct the wards of the Government and at the same time take from their own clients many thousands of dollars.

Thousands of lawyers of at least equal standing to the firm of Kappler & Merillat, and of far greater experience in actual practice, can be found who would devote their undivided time and attention to the affairs of these Indians, protecting them against all claims asserted against the nation of every kind and description, and prosecuting all claims of the tribes against the Government or any individual for an annual compensation equal to the amount provided in the annual contract held by these attorneys.

Mr. MILLER. Mr. Chairman, the gentleman has read to our great gratification and edification a communication, and I think we are entitled to know who is the author of the communication, and in order that the record might be complete and that it might have its full weight and strength with the membership of the House I will ask the gentleman if he will kindly give us the author of the communication.

Mr. AKIN of New York. I will tell the gentleman plainly it is not any of his affairs. I have a right to read it, and I have read it, and if the gentleman wants to he can have it expunged from the RECORD.

Mr. MILLER. Is the gentleman ready and willing to state to the membership of the House, upon his authority as a Member and upon his responsibility as a Member, that the statements therein contained are true?

Mr. AKIN of New York. Oh, no; I do not say they are true.

Mr. MILLER. Then I call the gentleman's attention to the fact it is questionable whether any Member of the House, in my judgment, ought to put upon the record of the House an attack like that upon two gentlemen whom I only casually know——

A MEMBER. And the Secretary of the Interior.

Mr. MILLER. And the Secretary of the Interior, unless he is willing to vouch and stand for the statement therein made or reveal the name of the author. I think it ought to be stricken from the RECORD, unless the gentleman is willing to tell us who wrote the communication.

Mr. AKIN of New York. I know I have had other matters stricken from the RECORD, but I am not going to strike anything more, I will tell you that plainly.

Mr. MILLER. How about the House?

Mr. AKIN of New York. If the House does not want what I read before the House, they can take it out of the RECORD. I will not take it out.

Mr. CARTER. What is that worth to the House if the gentleman will not stand sponsor for it and refuses to give the author? I do not think I have heard of a case exactly like this since I have been a Member of the House. We would be very glad to know who the author is, so as to give the statement proper credence.

Mr. AKIN of New York. Why should you know who the author is?

Mr. CARTER. Because it enables me to tell whether to believe him or not.

Mr. AKIN of New York. You can go to the department and find out whether it is so or not—whether these people have been connected in the way in which I read.

Mr. CARTER. If the gentleman did not take that precaution himself before he brought in here charges against the Secretary of the Interior, who represents his own party, he should not expect me to do so.

Mr. AKIN of New York. I have not done that; I have simply read this statement here.

Mr. CARTER. You have not read any statement of your own to a certainty.

Mr. AKIN of New York. I know that.

Mr. CARTER. Then whose statement have you read?

Mr. AKIN of New York. That is something that you will have to find out.

Mr. CARTER. I think we know.

Mr. COOPER. Mr. Chairman, I move to strike out the last word. I desire to offer the following amendment.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the word "over," in line 12, on page 5, down to and including the word "court," in line 13, and insert the words "except to a guardian of such person duly appointed by the proper court."

Amend further by inserting after the word "filing," on page 5, the words "by such guardian."

Mr. SAUNDERS. Mr. Chairman, will the gentleman allow me to make a suggestion? This matter, as the result of other amendments, has been reduced to an appointment for incompetency, either the result of infancy or otherwise. While the word "guardian" as the fiduciary does not apply to every form of incompetent, ought not you to say "guardian or committee"?

Mr. COOPER. Well, we have a guardian for all sorts of incompetents in Wisconsin.

Mr. SAUNDERS. Well, if that is true in other jurisdictions, the word "committee" applies to everything except guardians for infants. Of course if that is the legal proper phrase I have nothing to suggest.

Mr. COOPER. I offer this amendment in order to have the language accurate. The second proviso would then read that no trust funds shall be released and paid over except to a guardian of such person duly appointed by a proper court. Gentlemen will observe that the bill provides that trust funds shall not be paid over except "upon the appointment of a guardian and the order of a proper court," and so forth.

Mr. STEPHENS of Texas. Mr. Chairman, I will accept the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

Amend further by inserting, after the word "filing," in line 14, on page 5, the words "by such guardian."

Mr. COOPER. The second amendment is to be inserted after the word "filing," in line 14, page 5, of the words "by such guardian," and reads, "after the filing by such guardian and approval by the court," and so forth.

Mr. STEPHENS of Texas. Mr. Chairman, I also accept that amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 7. That from and after the approval of this act the lands of deceased Osage allottees, unless the heirs desire to and can agree as to partition of the same, may be partitioned or sold upon proper order of the county court of Osage County, State of Oklahoma, in accordance with the laws of the State of Oklahoma: *Provided*, That no partition or sale of the restricted lands of a deceased Osage allottee shall be valid until approved by the Secretary of the Interior. Where some of the heirs are minors, the county court may appoint a guardian for said minors in the matter of said partition, and partition of said land shall be valid when approved by the county court and the Secretary of the Interior. When the heirs of such deceased allottees have certificates of competency or are not members of the tribe, the restrictions on alienation are hereby removed. If some of the heirs are competent and others have not certificates of competency, the proceeds of such part of the sale as the competent heirs shall be entitled to shall be turned over to them without the intervention of an administrator. The shares due minor heirs, including such Indian heirs as may not be tribal members and those Indian heirs not having certificates of competency, shall be turned into the Treasury of the United States and placed to the credit of the Indians upon the same conditions as attach to segregated shares of the Osage national fund, or paid to the duly appointed guardian, or be disbursed in such manner and to such extent as the Secretary of the Interior may determine. The same disposition as herein provided for with reference to the proceeds of inherited lands sold shall be made of the money in the Treasury of the United States to the credit of deceased Osage allottees.

The CHAIRMAN. The Clerk will read the first committee amendment to that section.

The Clerk read the following committee amendment:

On page 6, line 1, strike out the word "may" and insert in lieu thereof the word "shall."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

On page 6, line 10, strike out the words "turned over" and insert in lieu thereof the word "paid."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

On page 6, line 14, strike out the word "turned" and insert in lieu thereof the word "paid."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

On page 6, line 17, strike out the comma and the words "or be," at the end of the line, and also all of line 18 and that part of line 19 down to and including the word "determine."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to amend, on page 5, lines 20 and 21, by striking out the words "the county court of Osage County, State of Oklahoma," and inserting in lieu thereof the words "any court of competent jurisdiction."

Mr. STEPHENS of Texas. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 5, lines 20 and 21, strike out the words "the county court of Osage County, State of Oklahoma," and insert in lieu thereof the words "any court of competent jurisdiction."

Mr. FOSTER. Mr. Chairman, I would like to ask my colleague, Mr. MANN, a question: Does he intend to strike out "the State of Oklahoma" and make it just a court of competent jurisdiction?

Mr. MANN. The court, necessarily, in making the partition would be a court of the State of Oklahoma.

Mr. STEPHENS of Texas. I accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to insert, on page 6, line 2, after the word "guardian," the words "ad litem."

Mr. STEPHENS of Texas. I have no objection to that, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

On page 6, line 2, after the word "guardian," insert the words "ad litem."

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to insert, in line 12, after the word "such," the word "minor."

Mr. STEPHENS of Texas. I accept that amendment also.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

On page 6, line 12, after the word "such," insert the word "minor."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to insert, in line 17, after the word "or," the words "with the approval of the Secretary of the Interior."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 6, line 7, after the word "or," the third word in the line, insert the words "with the approval of the Secretary of the Interior."

Mr. MILLER. Mr. Chairman, I do not quite see the reason or the purpose of that. Will the gentleman from Illinois explain it?

Mr. MANN. Mr. Chairman, as the bill now reads it requires the Secretary of the Interior to pay over money to a duly appointed guardian. As I have offered it, it would leave it within the discretion of the Secretary—an amendment, by the way, which the Secretary has repeatedly suggested—and it seems to me he ought to have that authority, so that if they do have some guardian appointed down there who ought not to be a guardian he can not require the payment of the money to him.

Mr. STEPHENS of Texas. That would permit the Secretary of the Interior to pass upon the validity of the duly elected officers of the State of Oklahoma, would it?

Mr. MANN. Oh, not at all. It would permit the Secretary of the Interior to say whether the money ought to be paid over or not.

Mr. STEPHENS of Texas. It does not have that application?

Mr. MANN. Not at all.

Mr. STEPHENS of Texas. Then I have no objection to it.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was agreed to.

Mr. GOOD. Mr. Chairman, I desire to strike out, on page 5, line 18, the words "desire to," at the end of the line; and on line 19 to strike out the words "and can," at the beginning of the line, and to strike out the word "as," after the word "agree." Strike out, also, the word "of," after the word "partition," and insert after the word "same" the words "such lands," so that it will read, "That from and after the approval of this act the lands of deceased Osage allottees, unless the heirs agree to the partition of the same, such lands may be partitioned."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. GOOD].

The Clerk read as follows:

On page 5, line 18, strike out the words "desire to," at the end of the line; on line 19 strike out the words "and can," at the beginning of the line, and strike out the word "as," after the word "agree," and strike out the word "of," after the word "partition," and insert after the word "same" the words "such lands."

Mr. GOOD. Mr. Chairman, I have offered these amendments just to make the language intelligible.

Mr. MANN. I suggest to the gentleman that the language "such lands" is not needed.

Mr. GOOD. The gentleman is right about that. I will ask unanimous consent, Mr. Chairman, to modify the amendment to that extent.

Mr. STEPHENS of Texas. I agree to the amendment with that modification.

Mr. MURDOCK. Mr. Chairman, will the gentleman from Iowa explain why he struck out the words "desire to"?

Mr. GOOD. Some of them may desire to. "Desire to" and "can" are the words of the bill.

Mr. MANN. It is a legal fiction.

Mr. GOOD. Yes. It balances the bill.

Mr. FERRIS. An agreement is the result of a desire?

Mr. GOOD. Yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. GOOD].

The question was taken, and the amendment was agreed to.

Mr. NORRIS. On page 6, line 1, I move to strike out the word "county" and insert in lieu thereof the word "said."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska.

The Clerk read as follows:

On page 6, line 1, strike out the word "county" and insert in lieu thereof the word "said."

Mr. STEPHENS of Texas. I accept that amendment, Mr. Chairman.

Mr. NORRIS. The object of this amendment is to give legal effect to the language. We have already provided that this guardian shall be a guardian ad litem. Such a guardian must always be appointed by the court in which the proceeding is pending.

The question being taken, the amendment was agreed to.

Mr. NORRIS. Mr. Chairman, on page 6, in line 4, I move to strike out the word "county."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 6, in line 4, strike out the word "county."

Mr. STEPHENS of Texas. I accept that amendment also, Mr. Chairman.

The question being taken, the amendment was agreed to.

The Clerk read as follows:

SEC. 8. That the lands allotted to members of the Osage Tribe shall not in any manner whatsoever, or at any time heretofore or hereafter, be encumbered, taken, or sold to secure or satisfy any debt or obligation contracted or incurred prior to the issuance of a certificate of competency, or removal of restrictions on alienation; nor shall the lands or funds of Osage tribal members be subject to any claim against the same arising prior to grant of a certificate of competency. That no lands or moneys inherited from Osage allottees shall be subject to or be taken or sold to secure the payment of any indebtedness incurred by such heir prior to the time such lands and moneys are turned over to such heirs: *Provided, however,* That inherited moneys shall be liable for funeral expenses and expenses of last illness of deceased Osage allottees, to be paid upon order of the Secretary of the Interior.

The Clerk read the following committee amendment:

On page 6, in line 24, strike out the comma and the words "or at any," and, on page 7, in line 1, strike out the words "time heretofore or hereafter."

The committee amendment was agreed to.

The Clerk read the following committee amendment:

On page 7, in line 10, strike out the words "turned over" and insert the word "paid."

Mr. MANN. That amendment ought to be disagreed to.

The question being taken, the amendment was rejected.

The Clerk read the following committee amendment:

On page 7, in line 14, strike out the words "Secretary of the Interior" and insert the words "county court of Osage County, State of Oklahoma: *Provided further,* That nothing herein shall be construed so as to exempt any such property from liability for taxes."

Mr. MURDOCK. Mr. Chairman, I should like to ask the gentleman in charge of the bill something about this proviso. What is the significance of the proviso:

Provided further, That nothing herein shall be construed so as to exempt any such property for liability for taxes?

I should like to ask some gentleman on the committee, Does this proviso reach those children who were born after July 1, 1907, who have received no allotment and who are not participants in the fund in the Treasury?

The point I want to make is, in the event of the death of an Indian, and his allotment passing to heirs, is the land of a child born after July 1, 1907, who is not a participant in the fund in the Treasury and has no allotment of his own, sold for taxes under this bill? I will ask the gentleman from Oklahome [Mr. MCGUIRE]?

Mr. McGUIRE of Oklahoma. The child, of course, inherits under the laws of Oklahoma, just the same as if he were of white blood. Now, under the provisions of this proposed bill, in case the child's parents had had the restrictions removed, the land would be taxable. But this takes the precaution to require that the Secretary of the Interior shall pay the taxes, whereas under the present law there is absolutely no protection, and the land will have to take its chances.

Mr. MURDOCK. In an ordinary case down there will the Secretary of the Treasury have money in the fund to pay the taxes on land owned by a child born since July 1, 1907?

Mr. McGUIRE of Oklahoma. It would depend on what the estate amounted to. There is something like $5,000 due every man, woman, and child born previous to July 1, 1907, so the minors born since July 1, 1907, would inherit their share of the money, as well as the land.

Mr. MANN. I suggest to the gentleman from Kansas that the provision of the bill is that the taxes shall be paid out of the segregated decedent's funds in the Treasury. It is not the money which may belong to the child which is used in paying the taxes; so that in the case of a child born subsequent to the enumeration, who is not entitled to a portion of the fund, the bill provides that the taxes shall be paid out of the funds of the decedent, and not out of the funds of the child.

Mr. MURDOCK. Out of the estate.

Mr. MANN. Out of the estate.

Mr. MURDOCK. Then this unallotted child is protected in the bill?

Mr. McGUIRE of Oklahoma. He is.

Mr. MANN. His taxes would be paid if his ancestor had any money in the Treasury.

Mr. FERRIS. He could not be protected any further than that.

The question being taken, the amendment was agreed to.

The Clerk read as follows:

SEC. 9. That any adult member of the Osage Tribe of Indians may dispose of any or all of his estate, real, personal, or mixed, including trust funds, from which restrictions as to alienation have not been removed, by will, in accordance with the laws of the State of Oklahoma: *Provided,* That no such will shall be admitted to probate or have any validity unless approved by the Secretary of the Interior.

The Clerk read the following committee amendment:

On page 7, in line 24, after the word "approved," insert the words "before or after the death of the testator."

Mr. MANN. Mr. Chairman, I should like to inquire just what is the reason for this amendment?

Mr. BURKE of South Dakota. Mr. Chairman, I will say to the gentleman that the purpose of the amendment is to settle beyond any question that it may be approved either before or after the death of the testator. We have a general provision of law permitting Indians to make wills. There was some question as to whether the approval of the will would be valid if made after the death of the testator, so we passed a bill recently amending it. However, it was decided, I think, by the Interior Department that the Secretary had the right to approve either before or after. In this bill it was thought wise to make it definite. For instance, an Indian might make a will and die before the will would be received by the Secretary of the Interior. If the approval had to be in the lifetime of the testator it could not be approved after his death, so we changed the law so there could be no question about it.

Mr. FERRIS. We have just passed through this House a bill doing the same thing for everything on the west side of the State of Oklahoma.

Mr. BURKE of South Dakota. The law providing that Indians can make wills, passed in 1910, was amended, as I have already stated, by a bill which passed this House on the unanimous-consent day before the last one, and that bill includes this provision.

Mr. MANN. I do not remember exactly the situation, but I remember that when a bill of this kind was originally introduced, either in this body or in the Senate, it had a provision in it that it must be approved by the Secretary of the Interior within a year, or that it must be probated within a year and approved by the Secretary, and I know that the Secretary made some objection to that limitation.

Mr. BURKE of South Dakota. I think there was a suggestion that the Secretary of the Interior ought to have two years within which to disapprove a will, and we limited it to one year.

Mr. COOPER. Mr. Chairman, I would like to ask the gentleman from South Dakota a question; will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. COOPER. I would like to ask if that would permit an adult Osage Indian under guardianship to make a will? It says "any member of the Osage Tribe of Indians."

Mr. BURKE of South Dakota. The intention is to allow any Indian to do so subject to the approval of the Secretary of the Interior. I do not imagine that the Secretary would permit such an Indian as you mention to make a will, at least he would not approve such a will.

Mr. MANN. An insane man can make a will.

Mr. BURKE of South Dakota. He can make a will, but it might not be approved.

Mr. COOPER. There is nothing on the face of the will by which the Secretary of the Interior can determine whether the testator is insane. I do not suppose his investigation would include anything that would not appear on the face of the will.

Mr. MANN. Oh, yes; he investigates every case. Mr. Chairman, I find the memoranda that I was looking for. I see that this has been changed to comply with the suggestion. This is a report from the Secretary of the Interior in relation to a similar bill. He says:

Section 11 permits adult members of the Osage Tribe to whom no certificate of competency has been issued to dispose of his estate by will.

Such a provision seems entirely proper, but I suggest that, after the word "will," in line 1, page 8, there be inserted the words "shall be admitted to probate or," and that the words "within one year from and after the death of the allottee," in lines 2 and 3, page 8, be omitted. The proviso would then read: "That no such will shall be admitted to probate or shall have validity unless approved by the Secretary of the Interior." It would be dangerous to prescribe a time limit within which such approval of the Secretary shall be given.

That was evidently changed in the Senate.

The CHAIRMAN. The question is on the amendment.

The amendment was considered and agreed to.

Mr. NORRIS. Mr. Chairman, I move to strike out the last word, because I want to pursue a little further the question asked by the gentleman from Wisconsin. As I understand it, there are at least two classes of these Indians, competent and incompetent, and it is not the intention of those who favor this legislation to permit those to whom the certificate of competency has not been issued to convey their estate. They must be competent before they would be allowed to do that, and yet this section would permit an incompetent person to convey by will the property that he would not have any legal right to convey by deed. Is that true?

Mr. BURKE of South Dakota. What does the gentleman mean by the term "incompetent"?

Mr. NORRIS. One to whom a certificate of competency has not been issued.

Mr. BURKE of South Dakota. I think the gentleman means by the term "competent" an Indian as we consider the word "competent." We can not legislate and provide what that Indian may do. He is as free to act as any other citizen of the United States.

Mr. NORRIS. Exactly.

Mr. BURKE of South Dakota. The purpose of this provision is to permit an incompetent Indian to make a will the same as you or I might do, and it would not be proper to permit an Indian to make a will without requiring some authority to approve or disapprove of it, and consequently we provide that a will shall have no effect at all until it is approved by the Secretary of the Interior.

Mr. NORRIS. Why, then, would it not be logical to provide that such a person, one to whom a certificate of competency has not been issued, should only make a deed subject to the approval of the Secretary?

Mr. BURKE of South Dakota. That is quite a different thing.

Mr. NORRIS. It conveys the same property.

Mr. BURKE of South Dakota. It is an entirely different proposition. I think the gentleman will appreciate that an Indian will be actuated by exactly the same motives that any other man might be actuated by.

Mr. NORRIS. I presume so.

Mr. BURKE of South Dakota. For instance, an Indian who has four children, two of whom were born before the allotments were made and who are allotted land, and he has two born thereafter that have no land. The Indian father has his allotment, and upon his death, under the law, his estate would be distributed in accordance with the law of descent in the State in which the Indian resides. That parent, as the gentleman might do, desires to give this land which he has to the two children who are without land, and therefore he ought to have the right to elect to give his allotment to the two children and not leave any part of it to the other two. And, as I said a while ago, somebody ought to supervise his acts, and therefore we say that it shall be subject to the approval of the Secretary of the Interior.

Mr. NORRIS. I can not see any reason why we should provide that a certain class of Indians shall not be allowed to convey their property by deed and still provide that the same Indian may convey the same property by will. It does not seem to me that it is done in any State in the Union or in any civilized country in the world. If a man is insane or incompetent to such an extent that he can not convey real estate, he can not convey it by will. In the case the gentleman puts he is assuming that the man or the Indian is competent to decide the very question that is at issue. We might take a different case. If a man were incompetent, insane, or something of that sort, you would not permit him to dispose of his property. If he was weak minded, some one might work on his weakness and would be able to get him to convey by will something that you have guarded in the law that shall not do by deed.

Mr. McGUIRE of Oklahoma. Will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. McGUIRE of Oklahoma. The gentleman from South Carolina stated the case exactly as it is and gave the reasons for this provision of the bill. This is a question that was gone over very thoroughly and discussed in the council who largely framed this bill.

Mr. NORRIS. By council the gentleman means the Osage council.

Mr. McGUIRE of Oklahoma. Yes; but here are the children born since 1907, and they were not allotted.

Mr. NORRIS. Let me interrupt the gentleman there, the gentleman from South Dakota referred to that, and I wanted to refer to it but forgot it.

Mr. McGUIRE of Oklahoma. I wanted to enlarge a little on it.

Mr. NORRIS. The gentleman can do it later. The assumption of the gentleman is that these Indians, incompetent Indians, would take heir in the kind of a case they provide for. The probabilities are that the gentleman is mistaken. If we want to take care of these cases, and I would be very glad to do so if there is any proper way to do it, we ought to do it by law. Let us provide how the property shall descend, to cover that class of cases. Gentlemen themselves must admit that they will not be able to cover all of the cases.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield for a moment?

Mr. NORRIS. The gentleman from Oklahoma [Mr. McGUIRE] was not quite through. I will yield to the gentleman later.

Mr. McGUIRE of Oklahoma. Mr. Chairman, I was simply going to state that this paragraph was intended to reach all cases where the children have no interest in the money now in the Treasury of the United States, and no interest in the allotments, except by inheritance.

Mr. NORRIS. Does the gentleman think he will cover that?

Mr. McGUIRE of Oklahoma. Yes; in this way——

Mr. NORRIS. How does the gentleman know that the incompetent man is going to provide for those children? Why not provide by law that the property shall descend in that way, rather than to leave it to a man whom the law itself says is incompetent?

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. McGUIRE of Oklahoma. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. McGUIRE of Oklahoma. Mr. Chairman, the law provides that the competency shall be determined by the Secretary of the Interior. Of 2,230, according to the last census, 450 certificates of competency were issued. That leaves the rest of the tribe—about three-fourths of the tribe—incompetent under the law.

Mr. ANDERSON of Minnesota. Mr. Chairman, will the gentleman yield there?

Mr. McGUIRE of Oklahoma. Just one moment. Of those prescribed incompetent under the law there are hundreds who are just as competent as any person——

Mr. NORRIS. I have no doubt about that, but there are some of them who are not.

Mr. McGUIRE of Oklahoma. Just one moment—so far as designating who should be the beneficiaries of their estates?

Mr. NORRIS. Yes.

Mr. McGUIRE of Oklahoma. They went to the council and said:

Here some of our children have money in the Treasury, and they have their allotments; others have nothing; we can not provide for these children except under the laws of Oklahoma; they get their share, but they do not get as much as the others, and we want the right in this bill to give those children what they ought to have—to equalize our estates.

That is the purpose of this, and it is all done under the supervision of the Secretary of the Interior.

Mr. NORRIS. I understand that; but suppose some incompetent Indian does not do that and he makes a will and he gives it to somebody else, or he does not make any will at all. Then these children that the gentleman is trying to protect by this provision get nothing.

Mr. McGUIRE of Oklahoma. If he does not make a will——

Mr. NORRIS. You are leaving these children whom the gentleman says he wants to protect by this provision at the mercy of people whom the law regards as incompetent.

Mr. McGUIRE of Oklahoma. There is no one there so incompetent that he will not take care of his children. It ought to be done under the supervision of the Secretary of the Interior.

Mr. NORRIS. I have no objection to that part of it, but the gentleman must admit that that will not take care of all of them unless these incompetent people are willing to do that.

Mr. McGUIRE of Oklahoma. But the incompetent people want to do it.

Mr. ANDERSON of Minnesota. As contemplated by this bill "incompetency" of the ward, in the sense of his relation to the Government, and "incompetency" in connection with his mental disability are quite different. There are a great many Indians who are incompetent in the sense of their wardship to the Government who are, in addition to that, incompetent mentally. It does not seem to me that an Indian or anyone else who is incompetent mentally ought to be permitted to make a will.

Mr. BURKE of South Dakota. Mr. Chairman, I want to say to the gentleman—and I think that will perhaps satisfy him, so that we can get along with the bill—the only question at issue is this: Shall we extend to the Osage Tribe of Indians the general law relating to the right of Indians to make wills that prevails as to all the Indians in the United States except the Five Civilized Tribes? That is the only question there is here, because this is the law as to the Indians in the gentleman's State and in the State of Minnesota. The question is, Shall we extend that law to the Osage Indians?

Mr. NORRIS. Mr. Chairman, if the general law is wrong, if it is not right, we ought not to be guilty of extending it still further. It seems to me we ought to be able to get it properly modified so that this difficulty could be properly met and the proper provisions of law enacted which would meet the contingency which the gentlemen who have drafted this provision must admit will not meet all of the meritorious cases.

Mr. FERRIS. Mr. Chairman, supposing the will made by the incompetent Indian under this provision is an inequitable will which does not accomplish what we all hope in each case it will accomplish.

Mr. NORRIS. Yes.

Mr. FERRIS. The Secretary will disapprove it, and he then has the right to take the estate, and the estate descends under the usual law of descent.

Mr. NORRIS. In that case suppose he does disapprove it; then it is just the same as if he had made no will, is it not?

Mr. FERRIS. Precisely.

Mr. NORRIS. And what is the gentleman going to do to meet that kind of a case?

Mr. FERRIS. As to those cases the regular law of descent will have to apply, and the estate will descend in that way.

Mr. NORRIS. The result will be an injustice in the case of a child that was born after an allotment took place, would it not?

Mr. MANN. It would be a misfortune to be born so late.

Mr. NORRIS. If it is not an injustice, then you do not need this provision; if it is an injustice, then you ought to have this provision that would cover all cases.

Mr. FERRIS. I submit that Indian children are constantly being born, and it would be impossible to formulate an amendment that would apply and do full justice to every child that has been born since the rolls were closed or may be born before the allottee dies.

Mr. NORRIS. The gentleman will admit that if this bill is enacted in its present form in some cases it would be unjust?

Mr. FERRIS. Well, not unjust; but it will fail to accomplish the good we hope to accomplish in every case. I can think of instances where it will not accomplish the good we hoped for; but it will do untold good, and the worst that could result would be to allow the law of inheritance to prevail.

Mr. NORRIS. The gentleman has given a great deal of study—does not the gentleman think the committee could bring in a provision that would do justice in all cases?

Mr. FERRIS. We talked about that at length, and I heard this thing discussed among the Indians themselves only last summer. There is a widespread desire on the part of the Indians that they be permitted themselves to be consulted in the way the property should descend. In our State the rolls were closed March 4, 1907, in the eastern half of the State, which is known as the Five Tribes, and the rolls in the western part of the State were closed some time since then. Now the rolls are closed. Children are constantly being born, and if we do not do something the law of descent steps in. For instance, when an allottee has 160 acres of land and he has four children, three of which were born before the rolls were closed and one was born after the rolls were closed, if the regular law of descent prevails, each child can take 40 acres of land; three will get an additional 40 acres to the 160 which is already had and one child has a lone 40 acres. Now, if this law passes, subject——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. I ask unanimous consent that the gentleman may have further time. I have consumed more of his time than I intended to.

Mr. NORRIS. I do not care for further time.

Mr. WARBURTON. Mr. Chairman, I move to strike out the last word. I would just like to make this suggestion, that if we make a hard and fast rule as to how the land should go you will do an injustice more frequently than if we pass this——

Mr. NORRIS. This only applies to incompetent persons.

Mr. WARBURTON. Yes; but I take it that an incompetent Indian occupies this position: He is not able to deal with his property as an ordinary man is supposed to deal. That is to say, he will convey his land and will dissipate his property unless prevented; that is the reason we hold him incompetent. It is to prevent his doing that, but it does not say that he is incompetent to devise his land. I take it that the incompetent Indian is just as able to devise his land properly as the so-called competent Indian. He may not be as able to barter and trade, he may not be as able to take care of his land while he lives, but he is competent to say how the land shall go after his death and how it should be divided among his heirs. In these matters he is just as competent as the so-called competent Indian.

Mr. STEPHENS of Texas. The gentleman thinks the Indian should be permitted to indicate his preference as to how his property should be disposed of after death if he is competent or incompetent.

Mr. WARBURTON. Yes.

Mr. STEPHENS of Texas. The Secretary of the Interior has not approved or disapproved the making of a will, but says it does not make a bit of difference except to let the Indian indicate how he wants his estate to go.

Mr. MANN. May I call the attention of the gentleman from Minnesota to this. I understood the gentleman from Minnesota in the course of his remarks to either state or argue that under this provision an insane person might make a will.

Mr. ANDERSON of Minnesota. If the gentleman will permit, I suggested that it might be possible under this provision of the bill that when a will was presented to probate it would not be necessary to prove the Indian was sane at the time he made the will. That seems to be the difficulty in this——

Mr. MANN. I think that difficulty does not exist, if I may say so to the gentleman. It says, "By will, in accordance with the laws of the State of Oklahoma." I think it is very clear that a person could not make a will unless he was mentally competent under the laws of the State of Oklahoma.

Mr. ANDERSON of Minnesota. The question in my mind was whether "in accordance with the laws of the State of Oklahoma" referred merely to the method of executing the will or whether it referred to the mental or other capacity of the testator making it.

Mr. NORRIS. I would like to suggest to the gentleman on that particular point. The beginning of the section says that any adult member shall have the right to do so and so, but it must be done in accordance with the laws of the State of Oklahoma. I would think now, just taking a first blush, a first jump at it, that the construction "in accordance with the laws of the State of Oklahoma" would refer more to the formality that is required in the making of the will than to the person who made it, because the law of Congress described in the first line of the section says that any adult member of the tribe can make a will. If the law of Oklahoma, for instance, required two witnesses to it, he would have to have them; otherwise it would not be in accordance with the law of Oklahoma.

Mr. MANN. I suppose that the law of Nebraska, for instance, requires a witness to the signature of a person making a will. Those are limitations.

Mr. ANDERSON of Minnesota. Suppose he were insane?

Mr. MANN. Well, I just wanted to put in the RECORD my opinion on the subject, formed after an examination. I do not believe it was so intended, nor do I believe it would result in giving anyone the right to make a will unless that person under the laws of the State of Oklahoma is mentally competent. This is simply to permit a person to make a will who has not had the restrictions on alienation removed.

Mr. NORRIS. The gentleman thinks, does he, that notwithstanding the statement in the first line, which says "who of this tribe can make a will," they would have to be qualified under the laws of the State of Oklahoma in order to make a legal will?

Mr. MANN. I think so, clearly.

Mr. NORRIS. Does not the gentleman think that the words "in accordance with the laws of the State of Oklahoma" do not apply and could not be construed to apply to a person designated by Congress, but to the methods that that person so designated in the first line of the section would have to pursue in order to make his will?

Mr. MANN. I think it applies to the whole thing. I think the making of the will in this case must be under the laws of the State of Oklahoma, just as any other person makes a will,

and in addition it must be approved by the Secretary of the Interior. In other words, I do not think this intends to enlarge the number of persons in the State of Oklahoma who are entitled to make a will, but simply to give our adherence to the permission.

Mr. ANDERSON of Minnesota. Mr. Chairman, I offer an amendment. In line 18, after the word "any," insert the words "mentally competent."

Mr. MANN. Where does the gentleman put that?

Mr. ANDERSON of Minnesota. After the word "any."

Mr. MANN. It should be after the word "member."

Mr. ANDERSON of Minnesota. After the word "member," in line 18, insert the words "mentally competent."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Minnesota.

The Clerk read as follows:

Amend, on page 7, line 18, after the word "member," by inserting the words "mentally competent."

Mr. STEPHENS of Texas. Mr. Chairman, I hope the amendment will not be adopted. It will destroy the sense of the bill.

Mr. MANN. Oh, no. That will not hurt it any.

Mr. COOPER. Mr. Chairman, I suggest to the gentleman from Minnesota, a member of the Committee on Indian Affairs, that section 5 provides for the disposition of certain trust funds under the direction of the Secretary of the Interior, after a guardian has been appointed, and that the guardianship implies incompetency on the part of the Indian to handle that property.

Now, section 8, which we are discussing, absolutely contradicts that so far as concerns the making of a will and gives to an Indian so mentally or physically incompetent that he has to have a guardian during his lifetime to take care of his property the right to make a will and dispose of it all. The language of the original section 5 is, "a person so afflicted, blind, crippled, or helpless"; and now the proposition is, by the section under discussion, if enacted into law, to permit a "helpless Indian," a "blind Indian," though under guardianship, to be left to the tender mercies of the lawyer—if he happens to be that sort of a lawyer—who writes his will for him.

Mr. NORRIS. They do not have any of them in Oklahoma, I suppose. [Laughter.]

Mr. COOPER. He is helpless, he is blind, and during his lifetime section 5 strictly limits the disposition which can be made of his trust funds and other property; but just as soon as he comes to die we allow his will to do with trust funds and property as he pleases. This helpless Indian makes a will and disposes of it——

Mr. FERRIS. In the discretion of the Secretary.

Mr. COOPER. Oh, in the discretion of the Secretary. But consider the number of people that would be coming to Washington to assure the Secretary that Indian wills had been properly made. It would impose a very serious burden upon him. These lawyers would say, "This will is in all respects in legal form," and they would bring as many or more witnesses here to say that no undue influence was practiced upon the testator as will be here to say that the blind and helpless Indian was imposed upon. The law should not shift such an impossible task upon the Secretary of the Interior, but should itself contain provisions ample to meet the situation.

We, the Congress of the United States, are the real guardians of these Indians. It is our business, as the gentleman from Nebraska said, to provide by law just what shall become of the property of these incompetents when death comes. One of the easiest persons in the world to impose on, I should say, would be a blind, helpless Indian.

The contingencies suggested by the gentleman from South Dakota [Mr. BURKE], and again suggested by the gentleman from Oklahoma [Mr. MCGUIRE], can all be met and amply covered by a law. If children are born after the allotments have been made we can by statute declare what shall become of the property in the event of death.

Mr. BURKE of South Dakota. I will say to the gentleman from Wisconsin that I do not think we have that power.

Mr. ANDERSON of Minnesota. Mr. Chairman, before my amendment is put I should like to ask unanimous consent to modify it so that it will read as follows:

After the word "Indians," in line 19, insert "not mentally incompetent."

Mr. STEPHENS of Texas. I will accept that.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Page 7, line 19, after the word "Indians," insert the words "not mentally incompetent."

Mr. COOPER. I move to amend the amendment by adding the words "and not under guardianship."

The CHAIRMAN (Mr. CONNELL). The question is on the amendment to the amendment offered by the gentleman from Wisconsin [Mr. COOPER].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. ANDERSON].

The amendment was agreed to.

The Clerk read as follows:

SEC. 11. That section 4, paragraph 4, of the Osage allotment act, approved June 28, 1906, be, and the same hereby is, amended to read as follows:

"Fourth. There shall be set aside and reserved from the royalties received from oil, gas, or other tribal mineral rights or other tribal funds, however arising, not to exceed $40,000 per annum for agency purposes and as an emergency fund, which money shall be paid out from time to time upon the requisition of the Osage tribal council with the approval of the Secretary of the Interior: *Provided*, That the provision in the act entitled 'An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1898, and for other purposes,' approved June 7, 1897 (30 Stat. L., 90), limiting the amount of money to be expended for salaries of regular employees at any one agency shall not hereafter apply to the Osage Agency."

Mr. MURDOCK. I should like to ask the gentleman from Oklahoma a question. The gentleman will remember that there were oil leases made upon some of the Osage Indian lands previous to allotment?

Mr. McGUIRE of Oklahoma. On all of the lands.

Mr. MURDOCK. Were those Standard Oil leases or not? Could they be so designated?

Mr. McGUIRE of Oklahoma. No; they were not Standard Oil leases.

Mr. MURDOCK. They were leases of independents?

Mr. McGUIRE of Oklahoma. They were independent, local people. Later on, since production, I understand that the Standard Oil Co. has purchased some of those leases in what is known in the oil field as proven territory, and that the question of the transfer is now before the Secretary of the Interior, and he has refused to approve the transfer from independent or local producers to the Standard Oil people on minor leases after they have been chopped up.

Mr. MURDOCK. So now these leases which were made previous to allotment are in statu quo?

Mr. McGUIRE of Oklahoma. No; they are not. There are 1,500,000 acres of the land, and the Secretary of the Interior refused to renew what was known as the blanket lease on any land which had not been tested, or where they were not producing, or where they had not proven or disproven the presence of oil. They had drilled on about 600,000 acres, and the lease was renewed as to that much of it. The rest of it is not under lease at this time, and they are taking steps to lease all of it.

Mr. MURDOCK. What becomes of the income from these leases? Does that go into some general fund?

Mr. McGUIRE of Oklahoma. That goes into the Osage general-purpose fund. Some of it is paid out. It does not go into the Treasury of the United States. It is paid to the Osages, except where a part of the money is taken for the running expenses. They pay for their own local government, and that is the purpose of the last paragraph. Their business is so enlarged that they are very much behind with their leases. They can not get funds. They have not the funds now to employ sufficient help.

Mr. MURDOCK. Is that why this limitation upon the pay of employees is placed in this paragraph?

Mr. McGUIRE of Oklahoma. That is the reason. This fund goes first to the running expenses, and what is left is paid in severalty to the Indians.

Mr. COOPER. What change is made?

Mr. McGUIRE of Oklahoma. I understand that the only difference is an increase from $30,000 to $40,000.

Mr. FOSTER. I notice that in this bill it says that the limitation on the amount paid at any agency in one year shall not apply hereafter to the Osage Agency. I should like to inquire the reason for that?

Mr. MILLER. That is the law now. This does not change that. This simply increases the amount from $30,000 to $40,000. The Osages wanted $50,000, but, after consideration, it was fixed at $40,000.

Mr. BURKE of South Dakota. That is correct. The other part of it is the law at the present time.

The Clerk resumed and completed the reading of the bill.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise and report the bill with the amendments to the House, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LLOYD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 2) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes, and had directed him to report the same to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the vote will be taken in gross.

No separate vote was demanded on any amendment.

The amendments were agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the last vote was laid on the table.

INDIAN DEPREDATIONS.

Mr. STEPHENS of Texas. Mr. Speaker, I call up the bill H. R. 14667.

The SPEAKER. The gentleman from Texas calls up the bill of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 14667) to amend an act entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If the House should now adjourn, would not this bill be the unfinished business on next Calendar Wednesday?

The SPEAKER. It undoubtedly would.

Mr. FOSTER. Mr. Speaker, I want to raise the question of consideration of the bill.

Mr. MANN. That is raised in the committee under this automatic rule.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. FOSTER] that when this bill comes up the House automatically goes into Committee of the Whole House on the state of the Union, and then is the time for the gentleman to raise the question of consideration.

THE PHILIPPINE ISLANDS.

Mr. JONES. Mr. Speaker, on yesterday, at the request of the gentleman from Pennsylvania [Mr. OLMSTED], the ranking minority member of the Committee on Insular Affairs, an article was inserted in the RECORD entitled "A suggested Democratic policy for the Philippines." I now ask unanimous consent that an article which appeared in the same paper, the National Monthly, written by the Hon. MANUEL L. QUEZON, Resident Commissioner of the Philippine Islands, entitled "The true Democratic policy for the Philippines," be inserted in the RECORD.

The SPEAKER. The gentleman from Virginia asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, which I think I shall not do, I would like to make this suggestion for the benefit of Members of the House in order to ascertain their point of view. We have got in the habit of inserting in the RECORD most anything that anyone asks for. It is printed in the RECORD in fine type. Anybody that reads the RECORD regularly certainly does not read articles in that fine type. What the benefit of inserting them in the RECORD is I have not been able to discover. The Senate, a very illustrious body at the other end of the Capitol, has adopted the practice in recent months, instead of inserting these articles in the RECORD, of having them printed as Senate documents. It seems to me that it would be a much wiser practice for the House, instead of inserting everything in the RECORD, where it only serves to cumber up the RECORD and where nobody will read them, to print them as House documents, where people can get at them and read them. I do not object to the request of the gentleman from Virginia.

The SPEAKER. Is there objection to the request of the gentleman from Virginia? [After a pause.] The Chair hears none.

The article referred to is as follows:

THE TRUE DEMOCRATIC POLICY FOR THE PHILIPPINES.

[A reply to the Hon. WILLIAM C. REDFIELD, Member of Congress, by Hon. MANUEL L. QUEZON, Resident Commissioner from the Philippines.]

In the January issue of the National Monthly appeared an article by the Hon. WILLIAM C. REDFIELD, in which he expressed his wish to present a Philippine policy which should be at once "Democratic, considerate, humane, and in accord with all the facts."

He begins by saying that "the Democratic Party is not responsible for acquiring the Philippines." In view of the fact that the Democratic leader of the day, Mr. Bryan, assisted by George Gray, the Democratic Senator from Delaware, secured the ratification of the treaty with Spain, which ceded the islands to the United States, this statement should be modified. Had this gentleman stood with Senator Hoar, the Philippine question would never have arisen. But it is true that Mr. Bryan never contemplated the retention of the islands, but only the conclusion of peace, believing and always consistently urging that the United States should take the islands in trust, to turn them over to the control of the Filipino people. That the islands should receive their independence and be given the opportunity to work out their own salvation was the Democratic doctrine, and has been proclaimed as Democratic doctrine in every national convention since that day. If it was a blunder to take the islands at all, it is a blunder to be rectified by letting them go as soon as possible.

Mr. Redfield says that "it may be laid down as fundamental that the Democratic policy requires that the American flag shall not permanently float over any dependent people," and he quotes with cordial approval a statement from the editor of the St. Louis Republic, as follows:

"Devoted to equal rights and equal opportunities, it would trust the whole body of the people at any time with any responsibility voluntarily assumed rather than yield control to one man or to a small group of men, no matter how wise and how good," and he prefaces this by the statement that "Democratic policy can not approve taxation without representation; no more can it approve the exercise of power over many by a few."

There is an earlier and more fundamental statement of Democratic doctrine, indorsed for more than a century by the whole American people. It reads thus:

"We hold these truths to be self-evident. * * * That all men are created equal," and that governments derive "their just powers from the consent of the governed."

Upon these self-evident truths the Democratic Party may safely take its stand, and if these are respected their independence can not longer be denied to the Filipino people, who are American subjects to-day against their will, only because the United States are strong enough to conquer them, and who are governed not by their representatives, but by a few Americans, in choosing whom they have no voice. We may, however, content ourselves with the statement of principle which Mr. REDFIELD quotes, for the retention of the Philippines is wholly inconsistent with that, since the control of the whole Filipino people is given to a few Americans, who tax them as they think proper.

Mr. REDFIELD argues that the Filipinos are poor, and, looked at "from the lowest standpoint—that of material needs—are in a backward condition"; that "the home of the Filipino farmer is usually a hut"; that "he is a child in farming, and needs to be taught"; and his conclusion is "that when they shall have acquired a common language and means of communication and have by the practice of self-government in their municipalities and provinces acquired the habit of self-government, and when the majority of them shall be able to cast a ballot which they can read in any language, it will be for them to decide what they wish their future relations with the United States to be"; and that until then "education, commerce, sanitation should be promoted by all the influence and power that is available to the American people, and that in the development of commerce the rights of the people of the islands shall be safeguarded scrupulously."

In this connection it may be noted that he thinks a hundred millions a year or more might flow to this country from the Philippines.

Mr. REDFIELD insists that before the question of independence is decided conditions must exist in the Philippines which do not exist in this or any other country and which have nothing to do with the right of self-government.

He says, "when they shall have acquired a common language." As Gov. Curry says, who is as familiar as any American can be with the Philippines, almost every Filipino can read or write his own language, and they understand each other. When was it Democratic doctrine that one nation could seize the territory of another, and insist that the inhabitants of the conquered territory should learn a new language before the question could be raised of giving them back their own land?

"They must speak a common language." Do the voters in Mr. REDFIELD's own district speak a common language? Do the Pennsylvania Dutch speak a language which the Minnesota Norwegian, an east-side Hebrew, or a Boston Italian can comprehend? Because there is a difference of language in the

Islands shall the United States, with all the different languages spoken in this country, insist that the Filipinos can not be free till they speak the same language, and that not their native tongue? How many well-governed, happy, and prosperous independent nations of to-day would immediately lose their independence if this rule were to be consistently applied?

"When they have by the practice of self-government in their municipalities and provinces acquired the habit of self-government." All the provincial governors are now Filipinos; the municipalities are governed by Filipinos; almost half the commission are Filipinos; more than half the judges and a large majority of other officers are Filipinos; and the assembly which has shown its sense and capacity, is wholly Filipino. They have shown capacity for self-government; and, if not, who is to judge when they acquire it, and what proof is needed?

Mr. REDFIELD would leave these questions to the American people, and let them decide whether another people can govern themselves. When was that sound Democratic doctrine?

He would have the interests of my people "safeguarded scrupulously" while the United States is developing the resources of the islands. When was that ever done in the history of the world? Is it done now in the United States by those who have been developing your resources in iron, coal, oil, tobacco, beef, and hides? Heretofore no subject people found their interests protected by their rulers, and the United States, which can not protect its own citizens against unscrupulous capital, certainly will never protect the Filipinos any better.

Mr. REDFIELD is afraid that the islands will fall into the hands of a native oligarchy. Where are they now? What is the Philippine Commission but an oligarchy appointed by a foreign government? If it be true that the Filipinos of wealth and education will, with the consent of their countrymen, exercise a controlling influence in the government of the islands, is not that better than it is to leave them in the hands of a foreign oligarchy without that consent? Will not their own countrymen understand them better than aliens? Any government to which the governed consent, be it oligarchy or monarchy, is in accordance with the fundamental doctrine enunciated by Jefferson in the Declaration of Independence. England is a democracy as much as the United States, and the King has far less power than the President; but if the whole Filipino government consisted of president, senate, and house of representatives, as in this free land, and the Filipino people had no voice in selecting them, that government would not be democratic. It hardly lies in the mouths of people so largely governed by a few, the various bosses who for years have controlled American politics—for a people taxed during so many years by men selected by those who have profited by the taxes, to insist on ideal conditions in the Philippine Archipelago.

Mr. REDFIELD reaches his conclusions by assuming certain facts that do not exist or else have less importance than he claims for them. He says the Filipinos largely live in huts and are children in farming. So are most of the people in this world. There is nothing so little understood by human beings as farming. Let him ride through the United States and see how many of his fellow citiezns live in huts in the country or worse tenements in the large cities; let him examine the census and learn how small is the average income of American citizens, and see how the tests which he would apply to the Filipinos would be borne in this country.

He says "there is no such thing as a Philippine people," and points to the existence in the islands of various tribes like the Negritos, Igorrotes, and others. There are about 7,500,000 to 8,000,000 people in the islands, and of these all but 500,000 are civilized Christian people. Are these people to be denied the right to govern themselves because some of their fellow countrymen are savage. Were there no American people when Cornwallis surrendered, because there were savages within their territory? Is the right to independence of the American people affected by the fact that among them there are millions of disfranchised negroes, Italians, and others? What reason is there to suppose that these tribes, Moros and others, would not be safer in the hands of a Filipino government than they are in the hands of the American Government? The statistics will show that more Americans on one side and savages on the other have been killed in the attempt to subdue the Moros and other tribes than were killed of Filipinos or savage tribesmen in any contest between them during three centuries before American occupation. Even now warfare is going on against the Moros, although the facts are not disclosed to the American people. During the war of conquest the Igorrotes of Luzon and the Moros of Mindanao recognized and obeyed the authority of the Philippine Republic, and while Christian Filipinos ruled the Moros the valleys and mountains of the Moro country were free from bloodshed. Mr. REDFIELD's statements in regard to the relation between the different elements of the Philippine population can not be substantiated by facts.

Mr. REDFIELD says that 192,975 voters alone voted at the last election, and that this is a small percentage of the total population. This is also true in every election in the United States, since only 20 per cent of the total population is usually taken as the total possible voting portion. If there are 8,000,000 people in the Philippines, the men of voting age should number 1,600,000, but this Government does not let all these vote. They must speak and write either English or Spanish, or must have a certain amount of property, or pay a certain sum in taxes. How many voters in the United States would be disfranchised if some foreign power were to seize the country and insist that to vote they must learn Russian or German? There are all over this country many voters who have no property and pay no tax. If all these were disfranchised unless they could speak some foreign language, how much would the registered vote be reduced?

Tell the voter, moreover, that the men he chooses will have no power, that whatever they do can be vetoed by a foreigner, and a great incentive for voting is removed. If, in Mr. REDFIELD's State, the voters could only choose the assembly, and the governor of Massachusetts appointed the senate and the governor, how much interest would the New York voters take in an election?

When the Filipinos are given their independence, the classes now disfranchised can be permitted to vote, and will know that their votes will have some weight. Then we should see a much larger vote at our elections. When the substance is denied the form soon ceases to attract. While the Philippine Commission appointed by the President can veto any act of the Philippine Assembly, no wonder then that the voter does not vote.

Mr. REDFIELD quotes the statements of Moro chiefs, given through an interpreter, but these are not to be taken at their face value. Those who heard them and knew the conditions under which they were made knew that they were not spontaneous and that they did not express the sentiments of the speakers. The Moros, as Mohammedans, count it a virtue to kill a Christian. How absurd is it that they should be represented as insisting that the chance to do this good act be denied them? The writer was present when the statements quoted by Mr. REDFIELD were delivered, and he could write an interesting story about their true source.

In short, Mr. REDFIELD would retain the Philippines until conditions which exist nowhere else exist there. He would leave the Filipinos under the sway of a small American oligarchy, against the will of the Filipino people, lest they be controlled by their own best men, who, in any community, are necessarily few. Such a government by their own leaders would be hailed with delight by the Philippine people. Mr. REDFIELD, on the other hand, would allow one man to "rule with a rod of iron 120,000 savages, whom nobody before has even been able to deal with or bring under control, whose least word is now their law," to quote the words of Governor General Forbes. He would let another American rule 350,000 men, as the same authority states that he does, thus giving two individuals despotic power over a large proportion of the savages, whom he is afraid to trust to their Filipino brothers. He would continue this system indefinitely until the rulers of the United States decide that the Filipinos are fit to govern themselves. By what right can this be called a Democratic policy? How can it be reconciled with Democratic principles, as he himself states them? How can it be distinguished from tyranny?

"I contend that it is to arraign the dispositions of the Almighty to suppose that he has created beings incapable of governing themselves. Self-government is the natural government of man," said Henry Clay. "No man is good enough to govern another without that other's consent," said Abraham Lincoln. These are statements of the true Democratic doctrine, and, as President Schurman, of the first Philippine Commission, said:

"The worst government of the Filipinos by themselves is better that the best government of them by us."

No nation ever rises save by its own exertions and its own mistakes, and every nation has the right to its independence. To these principles the Democratic Party has committed itself again and again since 1898. Its policy is to let the Filipinos govern themselves, and no specious argument for the continuance of American sway should blind any Democrat or make him untrue to the principles which alone justify the party's existence. In this emergency it must be true to itself and let the Filipino people go. Any other course is morally wrong and politically indefensible.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 22772. An act appropriating $350,000 for the purpose of maintaining and protecting against impending floods the levees on the Mississippi River.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 22772. An act appropriating $350,000 for the purpose of maintaining and protecting against impending floods the levees on the Mississippi River.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 1 minute p. m.) the House adjourned until to-morrow, Thursday, April 4, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of the Department of Commerce and Labor, submitting a list of useless papers on file in that department (H. Doc. No. 667); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

2. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Ella M. Guy (H. Doc. No. 668); to the Committee on War Claims and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War, submitting deficiency estimate of appropriation to reimburse Lieut. Sanderford Jarman, United States Army (H. Doc. No. 669); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 12810) regulating charges for transportation of parcels by express companies engaged in interstate commerce, reported the same with amendment, accompanied by a report (No. 485), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MORGAN, from the Committee on the Public Lands, to which was referred the bill (H. R. 16611) setting apart a certain tract of land for a public highway, and for other purposes, reported the same with amendment, accompanied by a report (No. 486), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. 22785) granting an honorable discharge to Noah Abbott, and the same was referred to the Committee on Naval Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WARBURTON: A bill (H. R. 22823) making an appropriation for the construction of a road through the Rainier National Forest Reserve, Wash.; to the Committee on Appropriations.

By Mr. CLAYTON: A bill (H. R. 22824) to increase the limit of cost of the public building authorized to be constructed at Opelika, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. DAVENPORT: A bill (H. R. 22825) directing the Secretary of the Interior to deliver patents to Seminole allottees, and for other purposes; to the Committee on Indian affairs.

By Mr. DONOHOE: A bill (H. R. 22826) to prohibit the sale of intoxicating liquor to minors within the admiralty and maritime jurisdiction of the United States; to the Committee on Alcoholic Liquor Traffic.

By Mr. MONDELL: A bill (H. R. 22827) to amend section 3 of the enlarged homestead act; to the Committee on the Public Lands.

Also, a bill (H. R. 22828), for camp grounds for Order of Owls; to the Committee on the Public Lands.

By Mr. BLACKMON: A bill (H. R. 22829), making appropriations for irrigation investigations and experiments in the humid regions of the United States; to the Committee on Appropriations.

By Mr. POWERS: A bill (H. R. 22830) to establish in the Department of Agriculture a bureau to be known as the bureau of public roads, and to provide for aid by the Federal Government in the construction, maintenance, or improvement of the public roads in the several States and Territories; to the Committee on Agriculture.

By Mr. OLMSTED: A bill (H. R. 22831) providing for the biennial appointment of a board of visitors to inspect and report upon the government and conditions in the Philippine Islands; to the Committee on Insular Affairs.

By Mr. KNOWLAND: A bill (H. R. 22832) to establish the Lake Tahoe National Park in the States of California and Nevada, and for other purposes; to the Committee on the Public Lands.

By Mr. MARTIN of Colorado: Resolution (H. Res. 477) calling on the Secretary of the Interior for certain information relative to the public lands; to the Committee on the Public Lands.

By Mr. LEVER: Resolution (H. Res. 478) authorizing the printing of additional copies of hearings on bill relating to agricultural education and on bill relating to the importation of nursery stock; to the Committee on Printing.

Also, joint resolution (H. J. Res. 288) to provide for the printing of "Information regarding oleomargarine and foreign laws relating thereto"; to the Committee on Printing.

By Mr. SLAYDEN: Joint resolution (H. J. Res. 289) in relation to a monument to commemorate the services and sacrifices of the women of the country to the cause of the Union during the Civil War; to the Committee on the Library.

By Mr. WILSON of Pennsylvania: Concurrent resolution (H. Con. Res. 45) providing for printing hearings on the Taylor and other systems of shop management; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AINEY: A bill (H. R. 22833) granting a pension to Olive J. Hale; to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 22834) granting an increase of pension to Joseph Tlamsa; to the Committee on Invalid Pensions.

By Mr. ANDERSON of Ohio: A bill (H. R. 22835) granting an increase of pension to George E. Good; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22836) granting an increase of pension to Edgar L. Taylor; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 22837) granting an increase of pension to Henry H. Guseman; to the Committee on Invalid Pensions.

By Mr. CLAYPOOL: A bill (H. R. 22838) granting an increase of pension to Lee Manlove; to the Committee on Invalid Pensions.

By Mr. CLAYTON: A bill (H. R. 22839) granting a pension to Benjamin C. Condon; to the Committee on Pensions.

By Mr. DAUGHERTY: A bill (H. R. 22840) granting a pension to Naomi Landers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22841) granting an increase of pension to Perry Black; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 22842) for the relief of the heirs of Jacob Theiss; to the Committee on War Claims.

Also, a bill (H. R. 22843) for the relief of the heirs of Irwin Rahn; to the Committee on War Claims.

By Mr. FIELDS: A bill (H. R. 22844) for the relief of Jeremiah Hunt; to the Committee on Military Affairs.

By Mr. HARTMAN: A bill (H. R. 22845) granting a pension to Martha P. Clingerman; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 22846) granting an increase of pension to William R. Adkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22847) granting an increase of pension to Charles M. Beard; to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 22848) granting an increase of pension to William Bittinger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22849) to correct the military record of Charles P. Kibler; to the Committee on Military Affairs.

By Mr. LEE of Pennsylvania: A bill (H. R. 22850) granting a pension to Albert A. Shollenberger; to the Committee on Invalid Pensions.

By Mr. LEWIS: A bill (H. R. 22851) for the relief of John Newton; to the Committee on Naval Affairs.

By Mr. LITTLEPAGE: A bill (H. R. 22852) granting a pension to Wilbur J. Patterson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22853) granting an increase of pension to Charles B. Clinton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22854) granting an increase of pension to Lawrence Hoffman; to the Committee on Invalid Pensions.

By Mr. MARTIN of Colorado: A bill (H. R. 22855) granting an increase of pension to Harry O. Van In Wagen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22856) granting an increase of pension to David Cleland; to the Committee on Invalid Pensions.

By Mr. MURRAY: A bill (H. R. 22857) granting a pension to John T. McGrath; to the Committee on Pensions.

By Mr. OLMSTED: A bill (H. R. 22858) granting an increase of pension to Joseph Montgomery; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 22859) for the relief of the estate of M. G. Horton, deceased; to the Committee on War Claims.

By Mr. REDFIELD: A bill (H. R. 22860) granting an increase of pension to Henrietta S. Hubbell; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 22861) granting a pension to Abner Williams; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 22862) to remove the charge of desertion against Eligah J. Myers; to the Committee on Military Affairs.

By Mr. WILLIS: A bill (H. R. 22863) for the relief of H. C. Owens; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON of Minnesota: Petition of G. G. Ristey and 17 others, of Spring Grove, Minn., against extension of the parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Petition of Albert R. Bader and 20 other citizens of Newark, Ohio, protesting against the enactment of interstate commerce liquor legislation; to the Committee on the Judiciary.

By Mr. BOWMAN: Petition of the dean of the School of Mines and Metallurgy of the Pennsylvania State College, for establishment of mining schools in the several States of the Union; to the Committee on Mines and Mining.

Also, petition of the International Dry-Farming Congress, relative to Weather Bureau extension work; to the Committee on Agriculture.

Also, petition of I. A. Farrah, of Nanticoke, Pa., for enactment of House bill 20595, amending the copyright act of 1909; to the Committee on Patents.

By Mr. CALDER: Petition of William P. Finley, of Brooklyn, N. Y., for enactment of House bill 6302; to the Committee on Military Affairs.

Also, petitions of Thurston & Kingsbury, of Bangor, Me., and the Smith Bros. Co., of New Orleans, La., for enactment of House bill 4667; to the Committee on Interstate and Foreign Commerce.

Also, petition of the port of New York (N. Y.) Atlantic Coast Seamen's Union, for legislation to promote the efficiency of the Public Health and Marine-Hospital Service, etc.; to the Committee on Interstate and Foreign Commerce.

Also, petition of the State Board of Charities of New York, for an illiteracy test in the immigration laws; to the Committee on Immigration and Naturalization.

Also, memorial of the New York State Senate, for protection of migratory game birds; to the Committee on Agriculture.

Also, memorial of Camas (Mont.) Hot Springs Commercial Club, for irrigation of the Flathead Indian Reservation; to the Committee on Irrigation of Arid Lands.

Also, petition of the Illinois Bankers' Association, for farm demonstration work throughout the country; to the Committee on Agriculture.

Also, memorial of the Chamber of Commerce of the State of New York, for establishment of marine schools, etc.; to the Committee on the Merchant Marine and Fisheries.

By Mr. CANNON: Petitions of R. H. Smith and 11 other citizens, of Toledo; Schnitker & Waldruff and 12 other citizens, of Chrisman; J. V. Eaff and 9 other citizens, of Greenup; C. H. Collins and 14 other citizens, of Casey; E. C. Miller and 9 other citizens, of Martinsville; H. M. Dewey and 8 other citizens, of Marshall; D. A. Huffman's Sons and 12 other citizens, of Paris; Pinnell & Hutton and 8 other citizens, of Kansas; and of D. L. Osborne & Co. and 7 other citizens, of Neoga, all in the State of Illinois, protesting against the enactment of proposed parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. CRAVENS: Petition of citizens of Wamble, Ark., for enactment of House bill 14, providing for a general parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. DAVENPORT: Petition of Independent Order of Red Men of Clarence, Okla., favoring House bill 16313, for erection of an American Indian memorial and museum building in the city of Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. DAUGHERTY: Petition of citizens of Vernon County, Mo., against parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Jasper County, Mo., favoring building of one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. DRAPER: Petition of Battle Hill Grange, No. 861, Patrons of Husbandry, protesting against the Lever oleomargarine bill; to the Committee on Agriculture.

By Mr. FULLER: Petition of George E. Dick, of Sycamore, Ill., favoring the establishment of a parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of T. H. McAllister & Co. and other merchants of De Kalb, Ill., against the enactment of parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. GOODWIN of Arkansas: Papers to accompany bill for the relief of Joe Brown (H. R. 22678); to the Committee on War Claims.

By Mr. HAMLIN: Papers to accompany bill for the relief of Rhoda E. Franklin (H. R. 22743); to the Committee on Invalid Pensions.

By Mr. HAMMOND: Petition of George E. Sawyer and 45 others, of Fairmont, Minn., for an investigation of certain alleged combinations of coal dealers as requested by city council of Two Harbors, Minn.; to the Committee on Rules.

By Mr. HANNA: Petition of the Woman's Christian Temperance Union of Kintyre, N. Dak., favoring passage of Kenyon-Sheppard bill; to the Committee on the Judiciary.

Also, petition of C. A. Wilhelm, of Haynes, N. Dak., asking that the duties on raw and refined sugars be reduced; to the Committee on Ways and Means.

Also, petition of citizens of Plaza, N. Dak., for old-age pensions; to the Committee on Pensions.

Also, petition of citizens of Blue Grass, N. Dak., protesting against the Lever oleomargarine bill; to the Committee on Agriculture.

Also, petition of a Catholic society of Brazil, N. Dak., relative to measures relating to Catholic Indian mission interests; to the Committee on Indian Affairs.

Also, petition of citizens of Mikkelson Township, N. Dak., for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of C. P. Kelstrup, of McClusky, N. Dak., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. HARTMAN: Petitions of Granges Nos. 889, 1104, and 1115, Patrons of Husbandry, for enactment of House bill 19133, which provides for a governmental system of postal express; to the Committee on Interstate and Foreign Commerce.

By Mr. HEALD: Petition of citizens of Milford, Del., against further extension of parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petitions of Woman's Christian Temperance Unions of Magnolia, Greenwood, Nassau, Slaughter Neck, Milton, Lewes, Clayton, Seaford, Harrington, Farmington, and Ocean View, all in the State of Delaware; and various organizations of Townsend, Milford, Lincoln, Milton, Hockessin, Wilmington, and Laurel, all in the State of Delaware, favoring the passage of the Kenyon-Sheppard interstate liquor traffic bill; to the Committee on the Judiciary.

By Mr. HOWELL: Petition of C. O. Anderson and others, favoring certain amendments to the copyright act of 1908; to the Committee on Patents.

By Mr. KNOWLAND: Petition of the congregation of First Methodist Episcopal Church of Oakland, Cal., favoring passage of House bill 16214—Kenyon-Sheppard bill; to the Committee on the Judiciary.

By Mr. LAFEAN: Petitions of churches in Gettysburg, Pa., for passage of the Kenyon-Sheppard interstate-liquor bill; to the Committee on the Judiciary.

Also, petition of Paradise Grange, No. 1448, Patrons of Husbandry, Hanover, Pa., against removal of tax on oleomargarine; to the Committee on Agriculture.

Also, petition of the Fruit Growers' Association of Adams County, Pa., favoring the passage of House bill 18160; to the Committee on Agriculture.

Also, petitions of Gideon Grange, No. 810, of Penn Township, York County, Pa., and Manchester Grange, No. 1374, of East Manchester Township, York County, Pa., favoring passage of House bill 19133; to the Committee on Interstate and Foreign Commerce.

By Mr. LEE of Pennsylvania: Petition of citizens of the State of Pennsylvania, for construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of the Manufacturers' Association of Schuylkill Haven, Pa., for reduction in the rates on first-class postage; to the Committee on the Post Office and Post Roads.

By Mr. LEVY: Petition of the State Board of Charities of New York, for legislation requiring immigrants to undergo an educational test; to the Committee on Immigration and Naturalization.

Also, petition of the Central Foundry Co., of New York City, for enactment of House bill 16844; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the Maritime Exchange of New York City, indorsing the action of Congress with respect to the battleship *Maine;* to the Committee on Naval Affairs.

Also, memorial of the New York State Senate, for legislation providing for protection of migratory game birds; to the Committee on Agriculture.

Also, petition of citizens of the State of New York, favoring the building of one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. LINDSAY: Petition of the Retail Cutlers' Association of New York and vicinity, for legislation to prohibit the issuance of coupons and trading stamps; to the Committee on Interstate and Foreign Commerce.

By Mr. McKENZIE. Petitions of citizens of the State of Illinois, for regulation of express rates and classifications; to the Committee on Interstate and Foreign Commerce.

Also, petitions of citizens of the State of Illinois, protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. OLMSTED: Petition of citizens of Myerstown, Pa., urging passage of bill to provide for establishment of system of mail delivery by carriers at all presidential post offices; to the Committee on the Post Office and Post Roads.

By Mr. POWERS: Petition of citizens of the eleventh Kentucky congressional district, favoring House bill 16450, in re punishment for breaking seals on cars, etc.; to the Committee on the Judiciary.

By Mr. PRAY: Petition of the Park Avenue Methodist Episcopal Church, of Somerville, Mass., favoring House joint resolution 163; to the Committee on the Judiciary.

Also, petition of residents of Dawson County, Mont., favoring enactment of an effective interstate-commerce law to protect prohibition territory; to the Committee on the Judiciary.

Also, petition of 75 residents of Livingston, Laurel, Columbus, Billings, Hardin, and Red Lodge, Mont., against parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of 35 residents of Kalispell and Creston, Mont., against passage of Johnston Sunday bill; to the Committee on the District of Columbia.

Also, petition of 66 residents of Hamilton, Deer Lodge, Stevensville, Philipsburg, and Dillon, against enactment of parcel-post service; to the Committee on the Post Office and Post Roads.

By Mr. REDFIELD: Petition of Retail Cutlers' Association of New York and vicinity, for legislation to prohibit the issuance of coupons and trading stamps; to the Committee on Interstate and Foreign Commerce.

By Mr. SPARKMAN: Petitions of Woman's Christian Temperance Unions, churches, and church organizations in the State of Florida, for passage of an effective interstate-liquor law; to the Committee on the Judiciary.

By Mr. STEPHENS of California: Petitions of organizations in Long Beach, Los Angeles County, Cal., for passage of Kenyon-Sheppard bill, to withdraw from interstate-commerce protection liquors imported into "dry" territory for illegal use; to the Committee on the Judiciary.

Also, memorial of U. S. Grant Council, No. 19, Junior Order American Mechanics, for legislation restricting immigration; to the Committee on Immigration and Naturalization.

Also, memorial of Group No. 700, of the Polish National Alliance of the United States, protesting against any further restriction of immigration; to the Committee on Immigration and Naturalization.

Also, memorial of the San Francisco Labor Council, for enactment of House bill 20423; to the Committee on the Judiciary.

Also, petitions of citizens of the State of California, for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of William Collins, Veterans' Home, Napa County, Cal., favoring House bill 20595, to amend section 25 of the copyright act of 1909; to the Committee on Patents.

By Mr. SULZER: Petition of the Retail Cutlers' Association of New York and vicinity, for legislation making illegal the issuance of coupons and trading stamps; to the Committee on Interstate and Foreign Commerce.

By Mr. WARBURTON: Petition of citizens of Washington, against Senate bill 237, for the proper observance of Sunday as a day of rest in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of H. W. Thompson, of Centralia, Wash., protesting against passage of House bill 9433, for the observance of Sunday in post offices; to the Committee on the Post Office and Post Roads.

Also, petition of Harris & Dice and other citizens of Wilkeson, Wash., protesting against extension of parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of West Coast Grocery Co. and other firms of Tacoma, Wash., against extension of parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of H. M. Caven and other citizens of Vancouver, Wash., in favor of the Berger old-age pension bill; to the Committee on Pensions.

Also, petition of C. T. Dover and other citizens of Sequim, Dungeness, and Port Angeles, Wash., in favor of Berger old-age pension bill; to the Committee on Pensions.

By Mr. WATKINS: Petition of citizens of Sikes, La., for an investigation of the charges against the editor of the Appeal to Reason; to the Committee on Rules.

By Mr. WILSON of New York: Petition of the Retail Cutlers' Association of New York and vicinity, for legislation to prohibit the issuance of coupons and trading stamps; to the Committee on Interstate and Foreign Commerce.

Also, petition of Illinois Bankers' Association, for farm demonstration work throughout the country; to the Committee on Agriculture.

Also, memorial of New York State Senate, for Federal protection to migratory game birds; to the Committee on Agriculture.

By Mr. WILSON of Pennsylvania: Petitions of 240 members of Eulalia Grange, No. 1088, Patrons of Husbandry, of Westfield; Chathams Run Grange, No. 1189, Patrons of Husbandry, of Pine Creek; Lookout Grange, No. 1426, Patrons of Husbandry, of Keating; Jobs Corner Grange, No. 1110, Patrons of Husbandry, of Jackson; Troga Valley Grange, No. 918, Patrons of Husbandry, of Richmond; Ulysses Grange, No. 1183, Patrons of Husbandry, of Ulysses; Lamar Grange, No. 274, Patrons of Husbandry, of Lamar; Bald Eagle Grange, No. 303, Patrons of Husbandry, of Bald Eagle; Blooming Grove Grange, No. 1361, Patrons of Husbandry, of Loyalsock; citizens of West Branch; Sebring Grange, No. 1147, Patrons of Husbandry, of Liberty; Aurora Grange, No. 874, Patrons of Husbandry, of Mansfield; Hepburnville Grange, No. 1339, Patrons of Husbandry, of Hepburn; Sugar Valley Grange, No. 1470, Patrons of Husbandry, Green and Logal Townships, Clinton County; Lorenton Grange, No. 1095, Patrons of Husbandry, Morris and Pini Townships, Tioga and Lycoming Counties; Farmington Hill Grange, No. 841, Patrons of Husbandry, of Farmington; Fair View Grange, No. 817, Patrons of Husbandry, of Farmington; Pini Run Grange, No. 250, Patrons of Husbandry, Anthony and Woodward Townships, Lycoming County; Stony Fork Grange, No. 1033, Patrons of Husbandry, of Delmar; and Midd Grange, No. 705, Patrons of Husbandry, of Middlebury, all in the State of Pennsylvania, favoring House bill 19133, for postal express; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Blossburg and Arnot, Pa., favoring building of one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of Lookout Grange, Keating Summit, Pa., favoring parcel-post service, etc.; to the Committee on the Post Office and Post Roads.

Also, petitions of citizens of Roulette and Potter Counties, Pa.; citizens of Muncy, Pa.; citizens of Mill Hall, Pa.; citizens of Procter, Pa.; 80 citizens of Westfield, Pa.; citizens of Troupsburg, N. Y., and Woodhull, N. Y., favoring passage of parcel-post law; to the Committee on the Post Office and Post Roads.

By Mr. YOUNG of Texas: Petition of A. A. Barker and other citizens of Kaufman County, Tex., in favor of parcel-post service; to the Committee on the Post Office and Post Roads.